

ALPHABETIZED BIBLIOGRAPHY ENTRIES

Aarons, Anthony. "EnDispute, Bates Edwards are joining forces". The Los Angeles Daily Journal; January 10, 1994; 107(6): p. S31, col. 1.

Article examines the growing alternative dispute resolution market and announces the merger of Bates Edwards, a small California ADR group, with EnDispute Inc., a large east coast ADR provider. Author notes the competition this merger will bring to other California ADR groups, such as American Arbitration Association (AAA) and Judicial Arbitration and Mediation Services (JAMS).

SUBJ MATTER: GENERAL/ ARB: SERVING AS ARBITRATOR.

Aarons, Anthony. "How to annoy a litigator". The Los Angeles Daily Journal; April 18, 1994; 107(73): p.S7, col. 2.

Article on the growing dislike of arbitration by litigators. Some claim that arbitrators are biased in favor of insurance companies because these companies are a primary source of revenue.

ARB: SELECTION OF ARBITRATOR/ SUBJ MATTER: INSURANCE/ 3RD PARTY: CONFLICT OF INTEREST.

Aarons, Anthony. "JAMS to open environmental dispute forum". (Judicial Arbitration and Mediation Services). The Los Angeles Daily Journal; July 7, 1994; 107(129): p.2.

The article examines Orange County based Judicial Arbitration and Mediation Services new project targeting the growing number of disputes involving environmental issues. It has been touted as the most comprehensive environmental law program in the field of ADR. The newly created Environmental Dispute Forum will go a long way toward reducing the cost of resolving environmental disputes, leaving more money to address environmental problems.

ECONOMIC ADVANTAGES OF ADR/ DISPUTE PREVENTION/ SUBJ MATTER: ENVIRONMENT.

Abrams, Douglas E. "Arbitrability in recent federal civil rights legislation: the need for amendment". Connecticut Law Review; Winter, 1994; 26(2): pp. 521-84.

Author argues that to protect public policy, civil rights claimants should be entitled to trial de novo after arbitral award if bringing claim under Americans with Disabilities Act (ADA), Title VII of Civil Rights Act of 1964, Civil Rights Act of 1866, or Age Discrimination in Employment Act of 1967 (ADEA). Author believes that Congress should amend

arbitration provisions of ADA and 1991 Civil Rights Act to explicitly grant right to trial de novo.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER:
COMMERCIAL/ SUBJ MATTER: CIVIL RIGHTS/ LEGISLATION/
POWER IMBALANCE.

Abrams, Roger I. "Public sector collective bargaining: a labor arbitrator's view of the Florida constitution". Nova Law Review; Winter, 1994; 18(2): pp. 733-57.

An analysis of the Florida constitution of 1968. Article argues that the Florida constitution is too easily amended. Also discusses Florida's constitutional protection of collective bargaining.

INST NATURE: GOV'T ENTITIES/ SUBJ MATTER:
LABOR-GENERAL.

Abrams, Roger I.; Abrams, Frances E.; Nolan, Dennis R. "Arbitral therapy". Rutgers Law Review; Summer, 1994; 46(4): pp. 1751-85.

Article examines Justice William Douglas's assumption in United Steelworker's v. American Manufacturing Co. that labor arbitration may be therapeutic. Author contends that arbitration may be therapeutic because many elements of the arbitration process resemble traditional psychotherapy. Article concludes that labor and management should worry about developments in labor arbitration that jeopardize its therapeutic value.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ
MATTER: LABOR-GENERAL/ JUDICIAL PARTICIPATION.

Accetta, Anthony T. "Mediators as problem solvers". Colorado Lawyer; March, 1994; 23(3): pp. 561-64.

Article summarizes mediation techniques, describes "common mediator models" and discusses the role of an attorney in the mediation process. Author contends that mediators are not fungible and that different types of cases require mediators with different backgrounds. Some cases may require a lawyer as a mediator.

MED: RELATED PROCESSES-GENERAL/ MED: RELATED
PURPOSES-THEORY AND STRATEGIES/ MED: ENCOURAGING
COMM AND NEG/ ROLE
OF LAWYERS.

Adler, Matthew H. "If we build it, will they come? - the need for a

multilateral convention on the recognition and enforcement of civil monetary judgments". Law and Policy in International Business; Fall, 1994; 26(1): pp. 79-111.

Article explores potential benefits of an international judgment recognition treaty. Article examines the historical experience the U.S. has had with the enforcement of judgments which have resulted from limited international treaties.

SUBJ MATTER: INT'L/ COMPARISONS: HISTORICAL/ LEGISLATION.

Adler, Sara. "The European Union examines labor and employment matters". The Los Angeles Daily Journal; July 15, 1994; 107(135): p.7.

Author examines how employment situations are handled in countries that are, or are soon likely to be, members of the European Union. She notes that although Europeans are interested in using ADR in the form of mediation in contract negotiations, they are not interested in ADR in labor dispute arbitrations. Author compares the US model of employment relations to the EU model.

COMPARISONS: CROSS-CULTURAL/ SUBJ MATTER: INT'L/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: GOV'T.

Adler, Sara. "Misperceptions about ADR: it's deja vu all over again". The Los Angeles Daily Journal; August 19, 1994; 107(159): p. 7, col. 1.

Article seeks to correct several commonly held misconceptions concerning ADR. Article points out that while discovery in ADR procedures may be less complete, it can still be just as effective. Author also disputes the contention that arbitrators tend to favor the business-producing side in disputes. Article closes by discussing the difficulties in finding a truly "neutral" neutral.

ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/ ETHICS: MISREPRESENTATION, FAILURE TO DISCLOSE.

Adler, Sara. "Sexual harassment claims lend themselves to mediation". The Los Angeles Daily Journal; February 18, 1994; 107(34): p. 7, col 1.

Author believes ADR resolution of sexual harassment claims is more humane and effective than litigation for number of reasons: claims are emotionally charged; fact-finding is

easier in presence of neutral rather than adverse party; settlement possible without final credibility determination of parties; and neutral can be selected by parties. Article discusses importance of selecting effective neutral, training issues, and variations of mediation for increased effectiveness.

MED: COUNSELING/ MED: PSYCH FACTORS/ 3RD PARTY: SELECTION.

Adler, Sara. "Tailoring solutions by using ADR techniques creatively". The Los Angeles Daily Journal; January 7, 1994; 107(5): p. 7, col 1.

Article explores the ADR possibilities available to parties outside the realm of standard ADR practices. Author advocates creating a process that fits the individual party's needs. Author suggests using standard ADR techniques as a base from which more creative procedures can be developed by the parties through their own creativity or in consultation with an ADR practitioner.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ SUBJ MATTER: GENERAL/ SELECTION OF APPROPRIATE PROCESS.

Adler, Sara. "Taking steps to ensure fairness in an arbitration procedure". The Los Angeles Daily Journal; October 21, 1994; 107(203): 7, col. 1.

Lawyers can gain control of arbitration process by working with opposing counsel. This may give arbitration a better reputation.

ROLE OF LAWYERS.

Alfini, James J. "Dispute resolution alternatives: what we know and what we need to know". Illinois Bar Journal; March, 1994; 82(3): pp. 130-33.

Article discusses wide attorney interest in ADR and warns that attorneys need to decide first, what is meant by ADR, and second, what purposes ADR is to serve. Author concludes that because of the rapid growth of ADR, the legal community needs to know more about its effectiveness and efficiency, and gather more comparative data.

INST NATURE: GENERAL/ ECONOMIC ADVANTAGES OF ADR/ ROLE OF LAWYERS.

"Alternative Dispute Resolution: The Fundamentals of Family Mediation". New Law Journal; July 29, 1994; 144(6658): pp. 1053-54.

Book review on work of Gwynn Davis, Stephen Cretney, and Jean Collins. Book evaluates lawyers and English legal system for divorce, suggesting ways for both to improve.

TYPE OF SOURCE: BOOK REVIEW.

Anderson, Cerisse. "Custody issues not subject to arbitration; court retains jurisdiction despite parties' agreement". New York Law Journal; October 12, 1994; 212(71): p.1, col. 3.

Article reviews a New York Appellate Court's opinion retaining the court's jurisdiction over custody issues, despite prior submission of custody disputes to an arbitration panel.

ARB: JUDICIAL REVIEW/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: FAMILY (DOMESTIC REL).

Anderson, Randall K. "Global warning; without proper planning, international arbitration agreements can wind up in a purgatory of delays". Los Angeles Lawyer; September, 1994; 17(6): pp. 27-31.

Article points out that arbitration is an effective means of resolving international commercial disputes, but efforts are frequently hampered by imprecise drafting of a contract. Parties should pay particular attention to stating precisely a choice of forum, choice of law, and choice of arbitrator.

ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: INT'L/ SUBJ MATTER: CORPORATE.

Andrews, N.H.. "Arbitration under ICC rules and security for costs". Cambridge Law Journal; November, 1994; 53(3): pp. 470-72.

Comment discusses court's justification for ordering security for costs of arbitration under rules of International Chamber of Commerce when insolvency of claimant became apparent in recent House of Lords decision. Comment notes this decision will leave unaffected non-ICC arbitration between non-resident parties and arbitration between a non-resident party and English party.

ARB: MANDATORY, COURT-ANNEXED- FEES & FUNDING/ SUBJ MATTER: INT'L.

Applewhite, Thomas D. "Ex parte Jones: but did you contemplate

substantial interstate activity?". Mercer Law Review; Summer, 1994; 45(4): pp. 1423-28.

Article examines the Alabama case Ex Parte Jones, 628 So.2d 316 (Ala. 1993) which discusses a stock purchase agreement containing an arbitration clause. Issue was whether the arbitration provision was unenforceable because the agreement did not involve interstate commerce and, as a result, did not invoke the Federal Arbitration Act.

ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/
SUBJ MATTER: COMMERCIAL.

Aptowitzer, Cheryl. "Arbitration - judicial review of arbitration awards". Seton Hall Law Review; Spring, 1994; 24(2): pp. 998-1032.

Note reviews the New Jersey decision of Perini Corp. v. Great Bay Hotel & Casino, Inc., in which the court ruled that an "arbitration award could be vacated where the arbitrator committed gross, unmistakable, or not reasonably debatable errors of law or where the arbitrator manifestly disregarded the law, and the result of the arbitration was unjust." Note examines the state and Supreme Court decisions leading up to the Perini decision.

ARB: JUDICIAL REVIEW/ TYPE OF SOURCE: CASE
STUDY/RESEARCH REPORT.

Araki, Takashi. "The Japanese model of employee representational participation". Comparative Labor Law Journal; Winter, 1994; 15(2): pp. 143-54.

Article examines the employee representational participation channels of collective bargaining and joint labor-management consultation used in Japan. Article describes the structure of the Japanese workplace and briefly documents the history of the shift from collective bargaining to joint consultation in the workplace and the reasons for this change.

NEG: CULTURAL CONSIDERATIONS/ NEG: USE OF
BARGAINING TEAMS/ SUBJ MATTER: LABOR-GENERAL/
COMPARISONS: HISTORICAL.

"Arbitration: witness privilege applies". ABA Journal; September, 1994; 80: pp. 48-49.

According to the California Supreme Court, witnesses who testify in private arbitration are entitled to the same "litigation privilege" as persons who testify in court.

Court decided the question based on application of California Civil Code Section 47(6) which extends absolute "litigation privilege" to statements made "in any judicial proceeding."

ARB: JUDICIAL REVIEW/ SUBJ MATTER: GOV'T/ 3RD PARTY: LIABILITY & IMMUNITY/ COURT REFORM.

Arnoff, Norman B., Jacobs, Sue C.. "Legal malpractice, fee disputes and arbitration". New York Law Journal; February 10, 1994; 211(28): p. 3, col. 1.

Article notes that when a client is unhappy with his/her attorney, the attorney may face a double liability--a claim of malpractice and a claim over fees. Author argues that the best way to handle such a situation is to separate the two claims and address them individually. The hope is that through mediation or arbitration, these genuine claims can be settled and differentiated from insincere claims.

MED: RELATED PROCESSES-GENERAL/ MED: CAUCUSING/ NON-BINDING RECOMMENDATION PROC- GENERAL.

Arnold, Tom. "Suggested form of contract to arbitrate a patent or other commercial dispute, annotated". Texas Intellectual Property Law Journal; Spring, 1994; 2(3): pp. 205-28.

Author states that arbitration is capable of resolving complex commercial, patent infringement, licensing or other intellectual property disputes at less than half the cost of, and at 15 percent of, the time required for court resolution of a similar dispute. However, author states that this is not possible if arbitration is not correctly contracted for. Article provides tips for contracting arbitration correctly, complete with forms.

ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: SELECTION OF ARBITRATOR/ ECONOMIC ADVANTAGES OF ADR/.

Ashe, Bernard F.. "Arbitration finality and the public policy exception". Dispute Resolution Journal; September, 1994; 49(3): pp. 22-33.

Article examines courts overturning arbitration decisions against public policy. Court usually gives deference to arbitration decisions. Proposes a balance between court review and impact of public policy on arbitral awards.

ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM-OTHER/ SUBJ MATTER: PUBLIC POLICY/ ARB: BINDING

ARB- GENERAL/ ARB:OBTAINING AND ENFORCING
AGREEMENT TO ARB.

Asouzu, Amazu A.. "The legal framework for commercial arbitration and conciliation in Nigeria". ICSID Review - Foreign Investment Law Journal; Fall, 1994; 9(2): pp. 214-36.

Article discusses Nigeria's 1988 enactment of an Arbitration and Conciliation Decree based on the United Nations Commission on International Trade Law (UNCITRAL) Model Law on International Commercial Arbitration. Article starts with an examination of customary law arbitration and is followed by a review of Nigeria's repealed 1914 arbitration law and a close examination of the Decree of 1988. Author concludes that the 1988 Decree has been an important contribution to the development of modern commercial arbitration law in Nigeria.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INT'L/ SUBJ
MATTER: COMMERCIAL.

Atherton, Trevor; Atherton, Trudie. "Adapting and applying alternative dispute resolution techniques". Australian Dispute Resolution Journal; May, 1994; 5(2): pp. 135-55.

Article compares the success of alternative dispute resolution in environmental disputes to traditional judicial and legislative processes. Author argues that although not perfect, alternative dispute resolution is a useful way to settle disputes in such a sensitive area.

SUBJ MATTER: ENVIRONMENT/ COMPARISONS: HISTORICAL/
ECONOMIC ADVANTAGES OF ADR.

Austein, Lori Ellen. "Arbitration and award: in the absence of a legal excuse or subsequent modification of the parties' agreement, the failure to submit a timely dispute to arbitration precludes judicial enforcement of the right to arbitrate". Pepperdine Law Review; May, 1994; 21(4): pp. 1440-46.

Reviews the recent California Supreme Court decision in Platt Pacific vs. Andelson. In said case, Platt gave up the right to arbitrate after failing to make a timely demand. Suggests that a party must either have a legal excuse for failure to demand arbitration, or will suffer the consequence of losing the right.

ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND
ENFORCING AGREEMENT TO ARB/ INST NATURE: PRIVATE,
PROFIT-MAKING/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER:

**CORPORATE/ TYPE OF SOURCE: CASE STUDY/RESEARCH
REPORT/ COMPLIANCE ISSUES.**

Bailey, Edwin O.. "Article 15 of the Chicago Convention and the duty of states to avoid discriminatory user charges: the US-UK London Heathrow airport user charges arbitration". Annals of Air and Space Law; Annual, 1994; 19: pp. 81-105.

Article examines results of the US-UK arbitration in context of Article 15 of the Chicago Convention. Author proposes that Article 15 should be changed to require a broader inquiry into the issue of user charge discrimination.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: GENERAL/
SUBJ MATTER: INT'L.

Bailey, L. Mark. "ADR subcommittees propose Rule 7". Res Gestae; June, 1994; 37(12): pp. 589-94.

Article discusses the creation and substance of Indiana's proposed Rule 7, which prescribes rules of conduct for neutrals in various dispute resolution formats. Author notes the methods used in formulating the rule, including studying similar efforts in other states, examining scholarly works, and looking at the Indiana Supreme Court's ADR rules. The proposed rules address seven issues: accountability, competence, disclosure, impartiality, impropriety, participant agreements, subsequent employment as a neutral, and remuneration.

ETHICS: GENERAL.

Bakker, Mark William. "Repairing the breach and reconciling the discordant: mediation in the criminal justice system". North Carolina Law Review; September, 1994; 72(6): pp. 1479-1526.

Article examines two types of mediation programs in the criminal justice systems and suggests reasons for their rise in popularity. Article discusses the advantages and disadvantages of mediation and surveys its success across the country. Article discusses the overriding philosophy of criminal mediation and suggests practical steps North Carolina can take in dealing with the criminal act.

MED: RELATED PROCESSES-GENERAL/ INST NATURE:
JUSTICE SYSTEM- CRIM COURTS/ SUBJ MATTER: CRIMINAL.

Bale, Rick. "A new direction for American labor law: individual autonomy and the compulsory arbitration of individual

employment rights". Houston Law Review; Spring, 1994; 30(5): pp. 1863-1913.

Federal courts have been encouraging parties to resolve employment conflicts through compulsory arbitration. Author believes that in labor relations, collective autonomy is shifting to individual autonomy through legislation like the Federal Arbitration Act. Article traces impact of selected court decisions and maps out changes necessary for complete transition to individual autonomy.

SUBJ MATTER: LABOR-GENERAL/ REQUIREMENTS: CONTRACTUAL CLAUSES/ REQUIREMENTS: MANDATE TO USE/ REQUIREMENTS: STATUTORY OR RULES.

Bale, Rick; Burch, Reagan. "The future of employment arbitration in the nonunion sector". Labor Law Journal; October, 1994; 45(10): pp. 627-35.

Article looks at past, present and potential future of employment arbitration in the U.S. Article lists several criticisms of employment arbitration and balances criticisms with advantages of system. Authors conclude that employers have much to gain from employment arbitration systems.

NON-BINDING RECOMMENDATION PROC- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ ECONOMIC ADVANTAGES OF ADR.

Bartlett, Carol. "Getting to go with the L.I.V. Mediation Service". (Victoria) Law Institute Journal; August, 1994; 68(8): pp. 686-87.

Article outlines procedures that attorneys in Victoria can use to access mediation services of the Law Institute. Analyzes the resistance to mediation generally felt by attorneys and advocates recognition of mediation as a valuable dispute resolution method. Stresses limiting the formality and regulation of mediation.

MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ SUBJ MATTER: GENERAL/ INST NATURE: GENERAL/ COURT REFORM.

Barton, Chris. "Divorced from the process?". Family Law; February, 1994; 24: pp. 104-05.

Article suggests that English solicitors give prospective clients an information packet at their initial interview. The packet would contain legal information about the divorce process. Author believes the packet will inform individuals about alternatives to formal divorce proceedings, such as mediation, thereby lightening the docket loads of traditional

courts.

MED: ENCOURAGING COMM AND NEG.

Barton, Peter C.; Sager, Clayton R.. "Tax Court specifies conditions for accepting settlement allocations". The Tax Advisor; September, 1994; 25(9): pp. 541-43.

Article discusses the recent Tax Court case of McCay, 102 TC No. 16 (1994). Court in this case ruled it would follow the express allocation of claims, for tax purposes, that is set out in the written settlement agreement if the parties reached the settlement as a result of "bona fide, arms-length adversarial negotiations." Author points out that this is the first case to apply this standard.

NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-COMPETITIVE/ SUBJ MATTER: TAX.

Baruch Bush, Robert A.. "The Promise of Mediation: Responding to Conflict Through Empowerment and Recognition". San Fransisco, California: Jossey-Bass Publishers; 1994.

Author argues that the mediation movement in the United States, which focuses primarily on problem solving, limits the potential benefits mediation can provide. Author suggests that instead a transformative approach to mediation should be embraced. The transformative approach centers around the goals of empowerment and recognition. Additionally, the author discusses practical steps that can be taken to advance a transformative approach to mediation and to realize the full benefits of mediation.

MED: RELATED PROCESSES-GENERAL.

Bellace, Janice R.. "The role of the law in supporting cooperative employee representation systems". Comparative Labor Law Journal; Summer, 1994; 15(4): pp. 441-60.

Article discusses the role of legal support for worker-management institutions. Author uses Germany and Japan for comparative analysis because these countries represent two types of approaches to the expression of the worker voice, the dual-channel system and the unitary channel of employee representation, respectively. Article analyzes these two systems and compares them to the American system, specifically in areas of collective bargaining, work councils, and Supervisory Boards.

SUBJ MATTER: LABOR-GENERAL/ COMPARISONS:

CROSS-CULTURAL.

Bennels, Brian. "The determinants of grievance initiation". Industrial and Labor Relations Review; January, 1994; 47(2): pp. 285-301.

Author attempts to explain the differences in grievance rates across 27 industry groups with survey data on 1205 work groups from 14 unions in Canada. Author contends that the behaviors of supervisors, employees and shop stewards are significantly related to grievance rates, therefore variation in their behaviors should be related to grievance initiation and variation.

MED: PSYCH FACTORS/ SUBJ MATTER:
LABOR-MANAGEMENT (UNIONS).

Berg, Martin. "Clerks in L.A. back at work; mediation set; two-day 'sickout' ends". The Los Angeles Daily Journal; May 20, 1994; 107(97): p. 1, col. 1.

Article details a two-day sickout by court clerks that will be settled by mediation. Article discusses the various issues in dispute between the clerks and the courts. Author notes the relative effect the sickout had on the court system.

MED: OBTAINING AGREEMENT TO USE/ MED: TIMING/
MED: OTHER JUDICIAL SETTLEMENT DEVICES/ SUBJ MATTER:
GOV'T CONTRACTS.

Bergman, Thomas H.; Samuels, Ellen J.. "Negotiating the commercial loan commitment (with forms)". The Practical Real Estate Lawyer; July, 1994; 10(4): pp. 11-26.

Article is a guide for borrower's counsel to negotiate hard before signing a loan agreement. Authors examine two different types of commitment loans (construction loans and permanent loans) and look at restrictions, scope and nature of loans. Authors give negotiation tips and conclude that loans must be carefully negotiated and reviewed.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/
NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ SUBJ
MATTER: COMMERCIAL.

Berkson, Lester H.. "Demise of binding arbitration in Nevada". Nevada Lawyer; August, 1994; 2(8): pp. 15-17.

Article discusses the impact of Nevada's Assembly Bill 522, enacted in 1993, on the effective abolition of binding

arbitration in Nevada. Analyzes the legislative history of the law, and suggests that many legislators were unaware of the impact of the bill when it was redrafted and passed.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- TRIAL DE NOVO/ TYPE OF SOURCE: CASE STUDY/ RESEARCH REPORT/ ECONOMIC ADVANTAGES OF ADR.

Berkson, Lester H. "Mediation and advising the client". Nevada Lawyer; May, 1994; 2(5): pp. 22-25.

Article describes the necessity of lawyers to clearly explain the mediation process to their client. Author explains the advantages of mediation and the mediation process from initiation to settlement. Outlines general procedures and strategies for successful mediation efforts.

MED: RELATED PROCESSES-GENERAL/ MED: OPENING AND SETTING GUIDELINES/ MED: REP OF A CLIENT DURING PROCESS.

Bianchi, Herman. "Justice as Sanctuary: Toward a New System of Crime Control". Bloomington and Indianapolis: Indiana University Press; 1994.

Author discusses the basic ideas of justice and examines universal concepts in legal systems. Traditional methods of crime control and new systems of conflict resolution are discussed. Author closes by examining how alternative systems of dispute resolution can be implemented within our existing legal system.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: CRIMINAL.

Bird, Roger. "Simple Quarrels: Negotiating Money and Property Disputes on Divorce" (book review). Family Law; September, 1994; 24: pp. 480-81.

Article describes how the book conducts its case studies and how it analyzes the parties, barristers, and judges involved. Although the author finds that the book raises interesting points, the author ultimately finds the book to be "unsatisfactory" because it fails to raise new issues.

INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: BOOK REVIEW.

Birkinshaw, Patrick. "Grievances, Remedies & the State". London:

Sweet & Maxwell; 1994.

As a follow-up to the first edition of this book which examined the role of non-judicial redress of grievances in institutions of the British State, the author addresses fundamental changes in this area brought about by the growth of individualism and consumerism. Central and local governments are discussed, as well as quasi-government and public corporations. In addition, the roles of ombudspersons and the courts in resolving grievances are discussed.

INST NATURE: GOV'T ENTITIES/ QUALITY CONTROL/ OMBUDSPERSON.

Birnbaum, Sheila L.; Jackson, J. Russell. "Recent multibillion-dollar settlements could serve as models for the resolution of mass products and toxic tort litigation". The National Law Journal; September 19, 1994; 17(3): p. B4, col. 1.

Article explains how defendant companies in asbestos litigation joined together and settled with plaintiffs to implement compensation schedules based on actual physical harm received. Settlement called for the use of arbitration to settle disputes on severity of harm and damages.

SUBJ MATTER: TOXIC TORTS/ ARB: PRIVATE JUDGING/ SETTLEMENT: PRESSURES TO SETTLE.

Black, Ray J.. "Mary Carter agreements are void in Texas as contrary to public policy". South Texas Law Review; January, 1994; 35(1): pp. 183-213.

Article describes a "Mary Carter" agreement, which usually arises in a tort action and under which the plaintiff propositions one or more of the defendants to enter into a partial settlement. Author concludes that such an arrangement may greatly benefit the parties, but it may also irreparably prejudice a non-settling defendant. Author analyzes the Texas Supreme Court's decision in Elbaor v. Smith, which held Mary Carter agreements void in Texas as contrary to public policy.

SETTLEMENT: AUTHORITY/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ SUBJ MATTER: PUBLIC POLICY.

Blacklock, Ruth; Roberts, Marian. "Professional standards in the selection of family mediators". Family Law; April, 1994; 24: p. 206.

Article examines the National Family Mediation's efforts to create a national framework consisting of affiliation

criteria for services, and professional requirements for the selection, training, supervised practice and the accreditation of family mediators. Article states that the National Family Mediation's new selection procedure is based on the primary requirement of aptitude for mediation.

MED: PUBLIC POLICY DIALOGUE.

Blackman, Peter. "AAA's new director: slate brings business twist to nonprofit group". New York Law Journal; April 14, 1994; 211(71): p. 5, col. 2.

Article examines the naming of William K. Slate as the new president of the American Arbitration Association (AAA). Slate, a 51-year-old advocate of ADR, was chosen to put the not-for-profit institution on a more businesslike footing. The AAA is the first alternative dispute resolution organization in the country and remains the largest today. The article examines Slate's desire to streamline the AAA and provides a brief biography.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: SECULAR, PRIVATE, NON-PROFIT/ SUBJ MATTER: PUBLIC POLICY/ ORGANIZATION POLICIES' AND RULES.

Blackman, Peter. "Claimants wanted: project tries to convince employees to arbitrate". New York Law Journal; May 26, 1994; 211(101): p. 5.

Article discusses an experimental arbitration program initiated by the New York Division of Human Rights to handle employment discrimination disputes. The goal of the program is to ease the docket of the court system. However, the program has been unsuccessful and has attracted a low number of participants. The program is taking steps to improve the system and make it more attractive to disputants.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ECONOMIC ADVANTAGES OF ADR/ SUBJ MATTER: CIVIL RIGHTS.

Blackman, Peter. "Defending arbitration: supporters surface among the employment bar". New York Law Journal; July 14, 1994; 212(9): p. 5, col. 2.

Congress proposed banning mandatory arbitration with respect to employment discrimination disputes in securities industry. Usual adversaries joined to support arbitration's role in these cases.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: SECURITIES.

Blackman, Peter. "Mediating tax disputes: lawyers find bureau offers speedy resolutions". (New York City Bureau of Conciliations). New York Law Journal; March 17, 1994; 211(51): p.5.

Article discusses New York City's new Bureau of Conciliations, created to speed up settlement of business-related tax cases. Author reports the Bureau employs mediation techniques, triggered by a request from the taxpayer, and typically hears questions of valuation.

MED: OTHER JUDICIAL SETTLEMENT DEVICES/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: TAX/ SUBJ MATTER: COMMERCIAL.

Blackman, Peter. "No clear winner yet: brokerage firms seek to derail arbitration effort". New York Law Journal; March 3, 1994; 211(41): p.5.

Article discusses progression of New York brokerage firm cases in which aggrieved customers attempt to obtain arbitration in their home states rather than New York. Author notes issues of jurisdiction, forum, and statutes of limitation in this context.

ARB: BINDING ARB- GENERAL/ INST NATURE: JUSTICE SYSTEM-OTHER CIVIL COURTS/ SUBJ MATTER: SECURITIES/ RELATION TO ONGOING LITIGATION.

Blank, Nelson D.; Scriven, Lansing C.. "Alternative dispute resolution". Nova Law Review; Fall, 1994; 19(1): pp. 33-53.

Article summarizes recent developments in Florida's commercial arbitration and three forms of court-annexed dispute resolution: court-ordered mediation; court-ordered non-binding arbitration; and voluntary binding arbitration. Regarding arbitration, author discusses opportunity for court review and appeals, as well as scope and form of awards, including specific performance, punitive damages, interest and attorney's fees, costs and expenses. Article discusses confidentiality in context of mediation, right to trial de novo in non-binding arbitration, and right of appeal in voluntary binding arbitration.

SUBJ MATTER: COMMERCIAL/ NON-BINDING RECOMMENDATION PROC-NON-BINDING ARB/ ARB: BINDING ARB- GENERAL.

Blau, Lauren. "Court mimics baseball with arbitration plan". The Los Angeles Daily Journal; April 28, 1994; 107(81): p. 1 col. 6.

Article examines how arbitration program for small civil cases copies baseball arbitration. Baseball arbitration attempts to get both sides to seek a reasonable settlement amount. Arbitrator then chooses between the two amounts. Article suggests that this form of negotiation works well in automobile cases because these disputes are usually only over the amount of the award.

SUBJ MATTER: INSURANCE/ ARB: MANDATORY,
COURT-ANNEXED-GENERAL.

Blau, Lauren. "Few disputes farmed out in L.A. court; only 2 percent of discovery battles go to private judges; bar complaints refuted". The Los Angeles Daily Journal; May 2, 1994; 107: p. 1.

Article discusses the number of disputes that are sent to private judges by the court under California state statutes and the angry reaction by trial attorneys. Author notes the misperception those attorneys have about the actual number of disputes sent out to private judges.

INST NATURE: JUSTICE SYSTEM- GENERAL/ REQUIREMENTS:
STATUTORY OR RULES/ ECONOMIC ADVANTAGES OF ADR.

Blaustone, Beryl. "Myth: the conflicts of diversity, justice and peace in the theories of dispute resolution; a myth: bridge makers who face the great mystery". University of Toledo Law Review; Winter, 1994; 25(1): pp. 253-70.

Author utilizes a mythic story to demonstrate the tensions in dispute resolution. The various forces include those who desire peace at any cost, those who favor justice and fairness above all, and those who seek a neutral decisionmaker.

SUBJ MATTER: GENERAL/ ETHICS: GENERAL.

Bleemer, Russ. "Top court: all arbitration factors must be weighed". New Jersey Law Journal; May 23, 1994; 137(4): p. 5.

Article discusses two rulings by the New Jersey Supreme Court concerning labor arbitration proceedings. The Court held that arbitrators must consider all the relevant statutorily listed factors in deciding municipal salary disputes. Before these cases were decided, arbitrators had largely relied on what employees in neighboring towns earn to help them decide

the conflicts. There is also pending legislation that may overhaul the arbitration process as it currently exists.

ARB: JUDICIAL REVIEW/ ARB: MANDATORY,
COURT-ANNEXED-GENERAL/ SUBJ MATTER: LABOR-GENERAL.

Bloch, Robert E.; Falk, Donald M.. "Bids for sweeping antitrust exemptions, sought by health care providers, could prove poor medicine for consumers". The National Law Journal; January 24, 1994; 16(21): p. 27, col. 1.

Article examines legislation which would confer immunity under antitrust law upon providers that collectively negotiate a fee-for-service schedule. Such acts are usually illegal. Also examines state laws which already provide such immunity.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/
SUBJ MATTER: ANTITRUST/ SUBJ MATTER: INSURANCE/ SUBJ
MATTER: HOSPITALS.

Block, Dennis J.; Hoff, Jonathan M.. "Fiduciary duties of directors in negotiating mergers". New York Law Journal; April 14, 1994; 211(71): p. 5, col. 1.

Article examines the fiduciary duties of directors in negotiating mergers. The increased merger and acquisition activity in recent years has tended to differ from the leveraged acquisitions of the 1980's in that they involve stock for stock strategic mergers, and not the all-cash financial acquisitions of the past. Article examines the effects of recent Delaware court holdings addressing the scope and extent of the fiduciary obligations of directors in considering these merger negotiations.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/
INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER:
CORPORATE/ DISPUTE NEG. v. DEAL MAKING.

Boczar, Barbara A.. "Avenues for direct participation of transnational corporations in international environmental negotiations". New York University Environmental Law Journal; July, 1994; 3(1): pp. 1-35.

Article advocates the formal participation of transnational corporations (TNC's) in the negotiation of international environmental agreements. As environmental issues become increasingly international, TNC's must be included in the decisionmaking process. Article examines the various methods of negotiation that can make it possible for TNC's to address the

potential concerns.

ECONOMIC ADVANTAGES OF ADR/ SUBJ MATTER:
ENVIRONMENT/ SUBJ MATTER: INT'L/ NEG: TACTICS,
STRATEGIES AND TECHNIQUES-GENERAL.

Bohlman, Bruce E.; Bohlman, Erick J.. "Wandering in the wilderness of dispute resolution: when do we arrive at the promised land of justice?".

North Dakota Law Review; Spring, 1994; 70(2): pp. 235-53.

Article examines both the adversarial and inquisitorial systems of dispute resolution. Author suggests that a hybrid method of dispute resolution, combining the two principle systems, will lead to a better judicial system.

SUBJ MATTER: GENERAL/ AGREEMENT ON PROCEDURE/
SELECTION OF APPROPRIATE PROCESS.

Bohmer, Carol; Ray, Marilyn L.. "Effects of different dispute resolution methods on women and children after divorce". Family Law Quarterly; Summer, 1994; 28(2): pp. 223-45.

Article discusses results from two different studies which examined three dispute resolution methods. Authors conclude that women who choose mediation are neither better nor worse off than women who choose the other two methods of dispute resolution.

MED: RELATED PROCESSES-GENERAL/ MED: OTHER
JUDICIAL SETTLEMENT DEVICES/ SUBJ MATTER: FAMILY
(DOMESTIC REL).

Born, Gary B.. "International Commercial Arbitration in the United States". Deventer, The Netherlands: Kluwer Law and Taxation Publishers; 1994.

Explores the world of international arbitration, with focus upon impact on the United States. In-depth analysis of choice of law issues with regard to international arbitration.

SUBJ MATTER: INT'L/ ARB: MANDATORY,
COURT-ANNEXED-GENERAL.

Bovis, Christopher. "Labor arbitration as an industrial relations dispute settlement procedure in world labor markets". Labor Law Journal; March, 1994; 45(3): pp. 147-56.

Article argues that arbitration is preferable to strikes in resolving labor disputes because it maintains "industrial peace," balances collective bargaining power, and permits a vehicle for introduction of government policies into the

bargaining process. Authors plead especially to trade unions to recognize the advantages of arbitration.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ
MATTER: LABOR-GENERAL/ POWER IMBALANCE.

Brand, Norman. "Arbitral immunity protects the process, not the arbitrator". The Los Angeles Daily Journal; September 2, 1994; 107(169): p. 7, col. 1.

Article discusses proposal in California that would eliminate statutory arbitral immunity. Discusses arguments encouraging the practice of statutory immunity.

ARB: SERVING AS ARBITRATOR/ ARB: JUDICIAL REVIEW/
3RD PARTY: LIABILITY & IMMUNITY.

Brand, Norman. "How about a Famous Arbitrators' School of Professional Arbitration". The Los Angeles Daily Journal; June 3, 1994; 107(106): p. 7.

Author expresses serious concerns about the future of arbitration due to excessive arbitration agreements and little supervision over arbitrators. Parties may be forced to arbitrate before non-neutral parties within their industry and, as a result, injustice is served because such decisions are non-reviewable.

ARB: SELECTION OF ARBITRATOR/ ARB: MANDATORY,
COURT- ANNEXED- GENERAL.

Brand, Norman. "The importance of knowing when to say no in mediation". The Los Angeles Daily Journal; May 6, 1994; 107(87): p. 7, col. 1.

Article discusses the importance of saying no in mediation, instead of saying no to mediation. Author argues that a lawyer can still utilize the basic principles of the adversary system in mediation.

COMPARISONS: HISTORICAL/ MED: RELATED PURPOSES-
THEORY AND STRATEGIES/ MED: PUBLIC POLICY DIALOGUE.

Brand, Norman. "Improving ADR will require a shift in thinking by lawyers". The Los Angeles Daily Journal; October 7, 1994; 107(193): p. 7, col. 1.

Article distinguishes between voluntary and imposed arbitration. Author warns against construing both together because often imposed arbitration does not work well. Construing both together may harm the very productive

voluntary arbitration.

ARB: MANDATORY, COURT-ANNEXED- GENERAL.

Brand, Norman. "Unbiased arbitration? It depends on who is making the rules". The Los Angeles Daily Journal; August 5, 1994; 107(149): p. 7, col. 1.

Article traces the history of imposed arbitration in securities disputes. Author is critical of the fact that most arbitrators come from within the securities industry, and thus are biased. Article further recommends that arbitrators be required to submit reasoned opinions to support their awards.

SUBJ MATTER: SECURITIES/ REQUIREMENTS: MANDATE TO USE/ ARB: SELECTION OF ARBITRATOR/ ARB: JUDICIAL REVIEW.

Brands, Bethany Verhoef; Johnston, Thomas M.; Harker, Jill Korenevich. "The Iowa Mediation Service: an empirical study of Iowa attorneys' views on mandatory farm mediation". Iowa Law Review; March, 1994; 79(3): pp. 653-730.

Article reveals results of survey of attorneys involved in Iowa's statutorily-mandated mediation program for resolving credit disputes between farmers and lenders. From empirical data, authors conclude that most attorneys believe that the program should be continued because "it works" in keeping those disputes out of court. Authors claim to offer different approach than other surveys on credit mediation by focusing on perception of attorneys instead of that of creditors or debtors.

MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES-THEORY AND STRATEGIES/ SUBJ MATTER: FARM/ SUBJ MATTER: COMMERCIAL/ ROLE OF LAWYERS/ LEGISLATION.

Bremer, Celeste F.; McCreight, James R.; Thompson, Michael. " 'Fair and effective' prisoner grievance systems: some practical suggestions". (Prisoner Grievances) (Symposium on Prison Reform and Rehabilitation.). Saint Louis University Public Law Review; Fall, 1994; 14(1): pp. 41-49.

Argues for revising and strengthening internal inmate grievance procedures to slow growth of prisoner litigation. Mediation receives particular attention as a possible solution.

MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER:

PRISONS.

Brenan, James. "International Commercial Agreements: A Primer on Drafting, Negotiating and Resolving Disputes, 2d ed". (book reviews). Lloyds Maritime and Commercial Law Quarterly; May, 1994; (2): pp. 290-91.

Article reviews the above book and claims author has done a thorough analysis for those drafting contracts for international commercial agreements. Author explains that the book comprehensively evaluates all types of alternative dispute resolution. Author describes how "adaptation," "renegotiation," and "mini-trials" can be used to avoid litigation and large-scale arbitration in international commercial law.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ SUBJ MATTER: INT'L/ SUBJ MATTER: COMMERCIAL/ TYPE OF SOURCE: BOOK REVIEW.

Briggs, Steven; Gundry, Lisa. "The human dimensions of grievance peer review". Journal of Collective Negotiations in the Public Sector; Spring, 1994; 23(2): pp. 97-113.

Article explores the overall impact of a peer review process on the morale of employees at a medium-sized hospital. Article includes opinions of employees and management about such issues as efficiency and confidentiality in the process, but does not discuss legal consequences of dispute resolution through peer review.

ORGANIZATION POLICIES AND RULES/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT.

Briggs, Steven; Siegle, Milton H., Jr.. "The ethical standards clause: a lesson from the private sector for the public sector". Journal of Collective Negotiations in the Public Sector; Summer, 1994; 23(3): pp. 181-86.

Article examines fiscal pressures on public sector employers to find new cost efficiencies. Article cites public expenditures in arbitrating grievances as a cost which could have been minimized through settlement. Article discusses the inclusion of an "ethical standards" clause in public sector collective bargaining agreements as a possible approach to cost reduction, and then weighs the advantages and disadvantages of such a clause.

SUBJ MATTER: GOV'T CONTRACTS/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: PUBLIC POLICY/ ETHICS: GENERAL/ PROVISIONAL REMEDIES.

Brittan, Leon. "Uruguay Round (Editorial)". Common Market Law Review; April, 1994; 31(2): pp. 229-34.

Author describes the Uruguay Round as an unprecedented exercise in international economic rule-making. Article suggests that the Uruguay Round resolved the problem of avoiding a veto without overriding National Sovereignty by requiring parties to a dispute to abandon their voting right by setting up a permanent appeals body, composed of high level experts in international trade law.

SUBJ MATTER: INT'L.

Brock, David. "Negotiating planning agreements after Tesco" (United Kingdom). Journal of Planning & Environment Law; August, 1994: pp. 697-702.

While reviewing the core law pertaining to the negotiation of planning permissions in the UK, author examines the impact of three recent cases on the law. Case law indicates that benefits going beyond necessity will be disregarded. Notes that whether Tesco displaces the Plymouth decision or can be reconciled is an open question.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ SUBJ MATTER: COMMUNITY.

Brodsky, Edward. "Punitive damages in arbitration". New York Law Journal; April 3, 1994; 211(70): p. 3, col. 1.

Article examines recent Federal court decisions holding that punitive damages may be awarded in arbitrations in which the Federal Arbitration Act (FAA) applies, even when the agreement to arbitrate is governed by the laws of a state which prohibits the award of such damages. However, article points out a conflict may exist as other courts refuse to allow punitive damages in similar situations. Article explains and analyzes these conflicting decisions which, it claims, may not conflict at all when properly analyzed.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: DRAFTING ARB AGREEMENT/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ REQUIREMENTS: CONTRACTUAL CLAUSES/ ORGANIZATION POLICIES AND RULES.

Brotman, Billie Ann. "Arbitration awards in the health care industry". Labor Law Journal; January, 1994; 45(1): pp. 55-58.

Article examines the interrelationships of contractual and statutory arrangements for resolving health care employee disputes. Author reviews arbitration decisions rendered in the health care industry and compares these decisions to those by the National Labor Relations Board.

SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ ARB:
OBTAINING AND ENFORCING AGREEMENT TO ARB.

Brown, Harold. "Dispute resolution for auto dealers". New York Law Journal; January 27, 1994; 211(18): p. 3, col. 1.

Article examines GM's one-sided dispute resolution program for auto dealers. Under this program, GM is assured a second and perhaps a third opportunity for vindication.

SUBJ MATTER: COMMERCIAL/ FAIRNESS/ INST NATURE:
PRIVATE, PROFIT-MAKING.

Brown, Jennifer Gerarda. "The use of mediation to resolve criminal cases: a procedural critique". Emory Law Journal; Fall, 1994; 43(4): pp. 1247-1309.

Article provides brief history of Victim-Offender Mediation (VOM) and describes the variety of VOM programs currently operating. Author argues that VOM disserves the interests of victims, offenders, and the state. Author seeks to shift VOM into the private sphere and recommends a decoupling of mediation from the criminal justice system.

MED: RELATED PURPOSES- THEORY AND STRATEGIES/
MED: PUBLIC POLICY DIALOGUE/ SUBJ MATTER: CRIMINAL/
FAIRNESS.

Brown, Jennifer Gerarda; Ayres, Ian. "Economic rationales for mediation". Virginia Law Review; March, 1994; 80(2): pp. 323-402.

Article starts from premise that there have been too few economic studies of the impact of mediation. From that base, authors argue that sequential caucusing, unique to mediation, creates distinctive "value" by reducing "adverse selection and moral hazard." Authors contend that caucusing induces favorable, balanced compromises because each side can reveal to the mediator privately what it would not reveal in front of an opponent.

MED: CAUCUSING/ ECONOMIC ADVANTAGES OF ADR.

Brunori, David; Zeidner, Rita L. "IRS considering appeals-level arbitration, appeals chief says". Tax Notes; March 14, 1994; 62(11): pp. 1360-61.

Article comments how Internal Revenue wants to improve its exam and appeals processes. Some of the considered improvements include using arbitration for the appeals processes, developing industry-specific appeals specialists, giving settlement authority directly to appeals officers, having the Office of the Chief Counsel involved less at the exam and appeal stages, implementing an accelerated appeals process, and allowing smaller cases to enter the early referral procedure.

SUBJ MATTER: TAX/ ARB: MANDATORY, COURT-ANNEXED-GENERAL/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS/ SETTLEMENT: AUTHORITY.

Bryan, Penelope Eileen. "Reclaiming professionalism: the lawyer's role in divorce mediation". Family Law Quarterly; Summer, 1994; 28(2): pp. 177-222.

Article identifies characteristics that put clients at risk in mediation. Author provides suggestions on how to prepare high-risk clients for mediation. Author discusses how the lawyer can structure the mediation and prepare the client to minimize the danger of inequitable results.

MED: ENCOURAGING COMM AND NEG/ MED: PSYCH FACTORS/ MED: REP OF A CLIENT DURING PROCESS/ SUBJ MATTER: FAMILY (DOMESTIC REL).

Buckley, Ross P.. "Dispute resolution initiatives in financial services in the United States: lessons for Australia". Australian Law Journal; April, 1994; 68(4): pp. 304-07.

Article describes the use of alternative dispute resolution measures in three United States financial services companies and in the United States securities industry. Author claims that the experiences of the United States companies, the United States securities industry, and the Australian Banking Ombudsman suggest that dispute resolution procedures would be desirable in the Australian financial services industry.

SUBJ MATTER: SECURITIES/ COMPARISONS: CROSS-CULTURAL.

Byrne, Thomas F.. "Using arbitration or mediation in unjust dismissal cases". The Los Angeles Daily Journal; May 20, 1994; 107(97): p. 7,

col. 1.

Article discusses the increase in employee wrongful discharge claims in the United States and how alternative dispute resolution can help in such instances. Author asserts that using alternative dispute resolution in employee wrongful discharge cases will substantially reduce the overall cost of these claims and cut down on the time such litigation takes to finalize.

MED: PUBLIC POLICY DIALOGUE/ SUBJ MATTER:
LABOR-DISCRIMINATION/ SUBJ MATTER: CIVIL RIGHTS.

Cahill, Kimberly M. "Mediation--A report card for women and minorities". Michigan Bar Journal; March, 1994; 73(3): pp. 286-88.

Article discusses the underrepresentation of women and minorities serving as civil mediators. Author worries that this underrepresentation skews the racial, ethnic and gender neutrality required of an alternative dispute resolution system. Author concludes that the position of women and minorities, and the overall ADR system, will be strengthened by a fuller integration of women and minority attorneys into the ADR system.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/
NEG: CULTURAL CONSIDERATIONS/ FAIRNESS/ ROLE OF
LAWYERS.

Campbell, David L.; Lennon, Julie E. "Drafting bankruptcy relief clauses in loan documents (with forms)". The Practical Real Estate Lawyer; July, 1994; 10(4): pp. 27-35.

Article uses case commentary to illustrate the caution employed by lenders when negotiating and drafting loan documents as a result of the automatic stay provisions under Bankruptcy Code 11 U.S.C. s. 362. Authors suggest that recent court decisions indicate that courts are more willing to enforce less restrictive prepetition agreements, thereby forcing lenders and their counsel to include provisions in their loan contracts relating to bankruptcy relief under 11 U.S.C s. 362.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/
INST NATURE: JUSTICE SYSTEM-OTHER/ TYPE OF SOURCE:
CASE STUDY/ RESEARCH REPORT.

Campbell, Richard P. "Law firm management under the new rules". (It's

a Whole New Ball Game: Playing by the New Civil Rules). Defense Counsel Journal; April, 1994; 61(2): pp. 197-204.

Discusses changes which the new Federal Rules of Civil Procedure will impose on law firms that specialize in defense-side litigation. Author suggests that changes in the Federal Rules of Civil Procedure will promote change in both the theoretical and practical approach to litigation from the defense side, and that ADR techniques will become more useful and used during this change.

MED: PRETRIAL CONF/ INST NATURE: GENERAL/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ LEGISLATION.

Carrizosa, Philip. "Court backs privilege in arbitrations; immunity ruling for witness is boost for process; justice split 4-3". The Los Angeles Daily Journal; April 29, 1994; 107(82): p.1, col.6.

Article examines a California Supreme Court decision which gives immunity to witnesses in arbitration proceedings. The decision found that immunity from liability was essential for successful arbitration.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ CONFIDENTIALITY.

Carrizosa, Philip. "Court divided over privilege in arbitration; should witnesses be protected as in court proceedings? Crucial, difficult issue". The Los Angeles Daily Journal; February 16, 1994; 107(32): p. 1, col 6.

In context of Moore v. Conliffe, a medical malpractice suit, article discusses California Supreme Court's consideration of whether witnesses in arbitration proceeding should be able to claim litigation privilege as a defense. Those in favor of arbitration claim lack of privilege will interfere with ADR because witnesses would not testify freely. Critics of providing privilege ask why testifying should have different consequences depending on the forum and believe that legislature should decide.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: MEDICAL MALPRACTICE.

Carter, James H. "The UNCITRAL Framework for Arbitration in Contemporary Perspective". (book reviews). Michigan Journal of International Law; Spring, 1994; 15(3): pp. 785-96.

Author reviews four essays contained in 1993 volume of International Arbitration Law Library on subject of United Nations Commission on International Trade Law Arbitration

Rules (the Rules) and Model Law. Author finds essays to be dense and technical, useful perhaps for in-depth research on rules. Article gives background information on UNCITRAL Rules and Model Law, commenting on usefulness of volume in context of other research materials available and suggesting approaches to be taken in future works.

ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/
SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW.

Caspi, Sandy. "Mediation in the Supreme Court; problems with the spring offensive report". Australian Dispute Resolution Journal; November, 1994; 5(4): pp. 250-67.

Article questions propriety of institutionalization of mediation by Victorian Supreme Court on basis of reliance on Spring Offensive Report. Criticizes report as containing misrepresentations and unsubstantiated conclusions.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST
NATURE: JUSTICE SYSTEM- GENERAL.

Castle, Tim. "The International Court of Arbitration for Sport". New Zealand Law Journal; November, 1994: pp. 400-03.

Article examines the establishment and jurisdiction of The International Court of Arbitration for Sport, which hears disputes over international sports-related incidents. Author discusses several examples of disputes the Court has heard, and details the structure and duties of the Court.

ARB: SERVING AS ARBITRATOR/ SUBJ MATTER: SPORTS &
ENTERTAINMENT/ ARB: BINDING ARB- GENERAL.

Cediel, German. "Courtrooms of the future: computers, negotiation areas should be worked into the design". The Los Angeles Daily Journal; August 31, 1994; 107(167): p. 6, col. 3.

Article points out that future court facilities should attempt to meet the growing demands of the modern practice of law. Article stresses that future designs should ensure that trial participants feel involved in the proceedings. Furthermore, author highlights the need for formal negotiating areas which may promote more settlements and thus allow greater access to the courtroom for others.

INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER:
SCIENCE & TECHNOLOGY.

Cerny, Rebecca A.. "Arbitration or litigation: efficacy and fairness in

resolving medical malpractice disputes through arbitration proceedings". Journal of Health and Hospital Law; July, 1994; 27(7): pp. 193-203.

Article examines the current medical malpractice system and the impact a federally mandated arbitration system would have on physicians and patients by looking at states and health care plans currently using arbitration to resolve medical malpractice disputes. Article concludes that while arbitration is potentially helpful, judicial interpretation of arbitration agreements should not rest upon uncertain ground, but should be addressed through specific legislative measures.

LEGISLATION/ JUDICIAL PARTICIPATION/ SUBJ MATTER: MEDICAL MALPRACTICE/ ARB: MANDATORY, COURT-ANNEXED- GENERAL.

Chaleff, Gerald L.. "Private judging; we cannot let the court system follow the example of the school system". Los Angeles Lawyer; February, 1994; 16(11): pp. 11-12.

Article argues that methods of private judging, such as mediation and arbitration, should be integrated into the public civil justice system. Author maintains that the private justice system will lead to a division of adjudicatory forums - one for those affluent enough to afford expensive private judges, and one for the rest of society.

INST NATURE: PRIVATE, PROFIT-MAKING.

Chamness, Robert P.; Miller, Fred H.; Cook, Robert A.; Harrell, Alvin C.. "Introduction to the 1994 Annual Survey of Consumer Financial Services Law". Business Lawyer; May, 1994; 49(3): pp. 1291-97.

Article is a general summary of the developments and issues in consumer financial services law in 1994. Article presents decisions on conflicts between consumer credit protection statutes and the Federal Arbitration Act.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB-GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB.

Chaykin, Arthur A.. "Selecting the right mediator". Dispute Resolution Journal; September, 1994; 49(3): p. 58.

Article stresses the importance of the selection of an appropriate mediator as a key to successful mediation. Article discusses mediation in general, and then lays out and discusses several factors parties should consider when

choosing a mediator. Considerations to be weighed include the nature of the dispute, the subject matter of the dispute, and the needs of the parties. Author points out that parties should always seek mediators with honesty, integrity, and courage.

MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES-THEORY AND STRATEGIES/ MED: OTHER JUDICIAL SETTLEMENT DEVICES.

Christie, R.G.. "Complaints against solicitors: conciliation or confrontation". Journal of the Law Society of Scotland; February, 1994; 39(2): pp. 43-44.

Article argues that a conciliation-based approach to resolving complaints against Scottish solicitors is superior to a rigorous inquisitorial investigation. By "conciliation-based," author means solicitor-client disputes would be settled by a mediator, usually over the telephone. Article maintains that the conciliatory approach will restore good will between solicitors and clients more quickly and satisfactorily than the lengthy correspondence procedures employed by the inquisitorial investigation system.

SUBJ MATTER: INT'L.

Chukwumerije, Okezie. "Choice of Law in International Commercial Arbitration". Westport, Conn.: Quorum Books; 1994.

International commercial arbitration tribunals typically encounter choice of law problems at three levels. They may need to determine the laws applicable to the arbitration agreement, to the arbitral procedure, and to the substance of the dispute. In determining and applying the applicable laws, they also have to moderate the impact of contending national public policies on the arbitral process. This book analyzes the various possible solutions to the choice of law problems faced at these levels. It focuses primarily on international arbitral practice and international conventions on arbitration. It also surveys judicial and legislative practices in selected jurisdictions on the issue.

SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L/
AGREEMENT ON PROCEDURE/ ARB: BINDING ARB- GENERAL.

Chukwumerije, Okezie. "Enforcement of foreign awards in Australia: the implications of Resort Condominiums". Australian Dispute Resolution Journal; November, 1994; 5(4): pp. 237-49.

Article uses recent case as background to discuss what awards are subject to New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards, the court's discretion to deny enforcing such awards, and the effect of public policy exception to enforcement. Notes that the public policy exception may act to undermine goals of convention.

ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/
SUBJ MATTER: INT'L.

Ciricillo, Robert C.; Fremantle, Adam; Hamburg, Jeanne M.. "A cultural perspective on international negotiations". The Practical Lawyer; July, 1994; 40(5): pp. 53-73.

Article discusses the trend toward globalization and internationalization of business transactions and notes that as this trend intensifies, lawyers will be called upon to become more familiar with the laws, customs and cultures of other nations. It highlights the techniques and theories necessary to achieve successful international business negotiations, stressing that success comes when all sides have clearly articulated their objectives and confirmed that all parties understand the context of the negotiated agreement.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG:
CULTURAL CONSIDERATIONS/ SUBJ MATTER: INT'L/
COMPARISONS: CROSS-CULTURAL.

Clark, Andrew. "Arbitration Practice in Construction Contracts, 3d ed". (book review). International Business Lawyer; October, 1994; 22(9): pp. 430-32.

Book review discusses work of Douglas A. Stephenson, which focuses primarily upon English arbitration practice and not international arbitration. Stephenson provides rules and explanations of English procedures with respect to construction.

SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW.

Cleary, Sean J.. "International arbitration - foreign arbitral awards - enforcement of foreign arbitral award refused under article V(1)(b) of New York Convention". Suffolk Transnational Law Review; Spring, 1994; 17(2): pp. 566-77.

Author states that under article V(1)(b) of the New York Convention, an exception to enforcement of foreign arbitral awards may arise where a party was denied an opportunity to

present its claim before the ruling arbitral body. Author illustrates the application of this article in Iran Aircraft Industries v. Avco Corp. Author concludes that this case unnecessarily and inappropriately provides authority for United States' courts to refuse enforcement of foreign arbitral awards under the New York Convention and may deter international arbitration.

ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: INT'L.

Cogan, Evelyn Boss. "Alternative dispute resolution and judicial immunity: a potential pitfall?" Labor Law Journal; November, 1994; 45(11): pp. 722-25.

Article points out that in a recent court case statements made by counsel in a fee dispute arbitration were not judicially privileged and were therefore actionable. Author emphasizes that labor counsel should be on notice of the potential for subsequent defamation actions until the issue of extending judicial immunity to counsel and parties in ADR proceedings has been resolved.

ROLE OF LAWYERS/ SUBJ MATTER: LABOR-GENERAL/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS.

Cohen, Joel; Liebman, Jonathan. "Pretrial diversion: an alternative to full federal prosecution?" New York Law Journal; April 6, 1994; 211(65): p. 1, col. 1.

Article examines the federal pretrial diversion (PTD) program as an effective and necessary alternative to formal federal prosecution. Article thoroughly examines the policy, procedure, eligibility, and effectiveness of this program. Article looks into the negotiation process that begins with an informal oral request, followed by a formal proposal including a meeting between the defendant's attorney and the federal authorities.

INST NATURE: JUSTICE SYSTEM- CRIM COURTS/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: CRIMINAL/ COURT REFORM/ JUDICIAL PARTICIPATION.

Cohn, Judy C.. "Custody disputes: the case for independent lawyer-mediators". Georgia State University Law Review; March, 1994; 10(3): pp. 487-518.

Article provides an overview of ADR and its application in custody disputes. Author argues that custody disputes

require the mediator to have negotiation skills and knowledge of the law, and therefore lawyer-mediators should be mandatory in custody dispute mediation.

MED: RELATED PROCESSES-GENERAL/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ 3RD PARTY: PRACTICE OF LAW/ 3RD PARTY: SELECTION.

Cone, Joel. "Finding a new market niche in real estate alternative dispute resolution". The Los Angeles Daily Journal; September 8, 1994; 107(172): p. 2, col. 2.

Article discusses a new company providing Southern California's real estate community with alternative dispute resolution services. Advantages include less cost and stress to parties than taking cases to court.

ECONOMIC ADVANTAGES OF ADR.

Cooley, John W.. "The Socratic method and conflict reframing in mediation". (A Classical Approach to Mediation, part 2). University of Dayton Law Review; Winter, 1994; 19(2): pp. 589-632.

Article explains how six Socratic techniques can be applied in mediation to assist in creative problem solving. After defining and explaining each technique, author gives sample mediation dialogues to illustrate. Author advocates mediators asking open-ended questions with which parties "educate" mediator and with which mediator carefully guides parties to desired solution.

MED: RELATED PURPOSES- THEORY AND STRATEGIES/
MED: ENCOURAGING COMM AND NEG/ TEACHING.

Corcoran, Kieran M.. "When does the buzzer sound? The nonstatutory labor exemption in professional sports". Columbia Law Review; April, 1994; 94(3): pp. 1045-75.

Article examines the scope of the nonstatutory labor exemption to the Federal antitrust laws after the expiration of a collective bargaining agreement in the professional sports industry. Article focuses on the origins of the exemption, its purpose, and the competing interests of Federal labor employment law and Federal antitrust law in the context of professional sports. Article proposes a standard that provides an equitable balancing of the conflicting policies.

NEG: USE OF BARGAINING TEAMS/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: ANTITRUST/ SUBJ MATTER:

LABOR-GENERAL/ SUBJ MATTER: SPORTS & ENTERTAINMENT.

Coulson, Robert. "MEDALOA: a practical technique for resolving international business disputes". (mediation and last-offer arbitration).

Journal of International Arbitration; June, 1994; 11(2): pp. 111-13.

Author explains techniques in new combination of mediation and last-offer arbitration (MEDALOA). MEDALOA involves international business disputes dealing with contracts. Author briefly describes techniques of MEDALOA and advantages its use presents.

MED: RELATED PROCESSES-GENERAL/ MED: OTHER
JUDICIAL SETTLEMENT DEVICES/ ARB: FINAL OFFER ARB.

Cox, Gail Diane. "Jammin' with Michael" (three members of Judicial Arbitration and Mediation Inc. get credit for Michael Jackson's settlement with 14-year old who accused him of molestation). The National Law Journal; February 14, 1994; 16(24): p. 2, col. 1.

Article notes the use of three retired judges who work for Judicial Arbitration and Mediation, Inc. (JAMS) for the Michael Jackson sexual allegation settlement. Article asks whether the use of the mediation paper trail will be allowed in a criminal contest if the district attorney pursues charges against Mr. Jackson. Currently, a state ban on using civil mediation documents in any other proceeding is in effect.

MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC
POLICY DIALOGUE/ CONFIDENTIALITY.

Crawford, Krysten. "Latham wins \$ 257 million for Prudential; arbitration award". The Los Angeles Daily Journal; September 9, 1994; 107(173): p.1, col. 1.

A panel of arbitrators ordered Japanese manufacturer to pay \$ 257 million in damages and attorney fees for driving local computer disk-drive designer out of business. Dispute grew out of a Silicon Valley contract. Panel heard dispute over the course of five years.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER:
REGULATORY/ SUBJ MATTER: CORPORATE.

Crawford, Patricia A.. "Pennsylvania's Bargaining Law for School Employees Act of 1992". Labor Law Journal; August, 1994; 45(8): pp. 475-81.

Author noted that the volume of teacher strikes, frequent use

of "selective strikes," threats of replacement staff, and underutilization of discretionary fact-finding served to bring about 1992 alterations in Pennsylvania Public School Code that had been previously unchanged for twenty-four years. Among the changes implemented to address these concerns are provisions for binding final offer arbitration and non-binding mutual final offer arbitration.

NON-BINDING RECOMMENDATION PROC- NON-BINDING
ARB/ ARB: BINDING ARB- GENERAL/ SUBJ MATTER:
EDUCATION.

Creamer, Carol; Chapman, Dawn; Davenport, Cynthia; Gorman, Tim. "Recent developments: the Uniform Arbitration Act". Journal of Dispute Resolution; Fall, 1994; 1994(2): pp. 311-45.

Article examines the Uniform Arbitration Act and surveys recent court decisions that interpret state versions of the Act. Article's purpose is to promote uniformity in interpretation of the Act by explaining the underlying policies and rationales of recent and current developments.

ARB: BINDING ARB- GENERAL.

Crook, John R.. "Commentary on the UNCITRAL Arbitration Rules: The Application by the Iran-U.S. Claims Tribunal" (book reviews). American Journal of International Law; January, 1994; 88(1): pp. 193-94.

Article reviews book which is organized around the framework of the UNCITRAL Arbitration Rules. Author advocates use of this book by anyone dealing with international arbitration or Iran-U.S. Claims Tribunal. The book analyzes the UNCITRAL rules and policy reasons behind the rule's adoption, and provides analysis of how the rules have been applied and interpreted by the Tribunal.

TYPE OF SOURCE: BOOK REVIEW/ SUBJ MATTER: INT'L/
ARB: BINDING ARB- GENERAL.

Culiner, Helen B.. "Practical guidelines for lawyers representing clients in arbitration proceedings today". Dispute Resolution Journal; September, 1994; 49(3): pp. 48-53.

Article attempts to refute the view that arbitration is no different than trial presentation, except that the rules of evidence are not applied as strictly. Legislation and the internal promotion of ADR within certain industries has widened the scope of arbitration. Lawyers should pay careful attention to the arbitration clause, which may

govern the scope of the award and res judicata effect of a decision. The law of a particular jurisdiction may also determine the level of judicial review of an arbitrator's decision.

ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/
ARB: DRAFTING ARB AGREEMENT/ ARB: PREPARATION/ SUBJ
MATTER: CORPORATE/ ISSUE & CLAIM PRECLUSIVE EFFECTS/
LEGISLATION.

Curriden, Mark. "Sign it, Alston & Bird staff told: presented with an employment contract, firm's employees show lawyerly caution". ABA Journal; August, 1994; 80: p. 25.

Author examines reactions and criticisms to a large firm's mandatory employment contract requiring all employees to resolve disputes through arbitration.

ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND
ENFORCING AGREEMENT TO ARB/ ARB: SELECTION OF
ARBITRATOR/ INST NATURE: PRIVATE, PROFIT-MAKING/
REQUIREMENTS: MANDATE TO USE.

Currie, Janet; McConnell, Sheena. "The impact of collective-bargaining legislation on disputes in U.S. public sector: no legislation may be the worst legislation". Journal of Law and Economics; October, 1994; 37(2): pp. 519-47.

Article examines state and local government contracts and compares incidence of disputes among similar workers. Authors conclude that dispute costs are greatest where jurisdiction provides no explicit framework for bargaining or dispute resolution. Further, authors find that strikes are least frequent in jurisdictions with arbitration.

INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER:
LABOR-MANAGEMENT (UNIONS)/ LEGISLATION/ ECONOMIC
ADVANTAGES OF ADR.

Dansky, Stephen A.. "Deregulation and the end of project financing". Fortnightly; July 15, 1994; 132(14): pp. 17-18.

Author examines the effects of deregulation on project-financed independent power companies. At the heart of a project-financed deal is the ability to forecast with some certainty what a project's revenues and costs will be over the term of the financing. With more and more deregulation, changes will be made in the way the projects are financed and in the way the governing contracts are made. This will

include negotiating goals and techniques.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/
NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ SUBJ
MATTER: PUBLIC UTILITIES.

Daragahi, Borzou. "Environmental ADR: demand for arbitration raises practical concerns". New York Law Journal; September 20, 1994; 212(48): p5, col. 2.

Article explains that although many plaintiff and defense lawyers currently involved in environmental litigation support arbitration, issues such as lack of discovery and unqualified arbitrators need to be resolved to ensure success.

SUBJ MATTER: ENVIRONMENT/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ECONOMIC ADVANTAGES OF ADR/ FAIRNESS.

Darrell, Joseph A.. "Let's settle this; parties turning to arbitration as an alternative to litigation". The Los Angeles Daily Journal; October 27, 1994; 107(207): S16, col. 1.

Article discusses California's statutorily-created Hazardous Substance Cleanup Arbitration Panel (HSCAP). Article explains process under HSCAP arbitration.

SUBJ MATTER: ENVIRONMENT.

Daughety, Andrew F.; Reinganum, Jennifer F.. "Settlement negotiations with two-sided asymmetric information: model duality, information distribution, and efficiency". International Review of Law and Economics; September, 1994; 14(3): pp. 283-98.

Article analyzes a model where the plaintiff is privately informed of the level of damages incurred, and the defendant is privately informed of the likelihood of incurring liability. Two variations were explored where the roles of settlement proposer and responder were alternatively assigned to the plaintiff and defendant. Article examined the resulting exchange of information between the parties, the relative efficiency of the models, and the social desirability of the different roles.

NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- GAME THEORY/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-ECONOMIC/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT.

Davenport, B.J.. "Problems of arbitration law reform" (United Kingdom). *Law Quarterly Review*; July, 1994; 110: pp. 372-73.

Note examines English Department of Trade & Industry's Consultation Paper regarding draft clauses of an arbitration bill. The draft clauses attempt to consolidate the then-existing Arbitration Acts. Author notes that consolidation of Act and codification of arbitration laws involve separate processes with different objectives. Author notes that end result should be a code that is clear for commercial purposes.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST
NATURE: GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ
MATTER: INT'L.

Davies, Paul. "The representation of workers in the United Kingdom from collective laissez-faire to market individualism". Comparative Labor Law Journal; Winter, 1994; 15(2): pp. 167- 76.

Article examines the changes in collective bargaining that took place in the United Kingdom after World War II. The UK Government helped bring the decline of collective bargaining through legislation and moved jobs from the public to the private sector. Article also compares the ways collective bargaining has developed in the United Kingdom and the United States.

NEG: USE OF BARGAINING TEAMS/ COMPARISONS:
CROSS-CULTURAL/ SUBJ MATTER: LABOR-MANAGEMENT
(UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS).

Davis, Gwynn. "Mediation and the ground for divorce: a new era of enlightenment or an Orwellian nightmare?". Family Law; February, 1994; 24: pp. 103-04.

Article addresses a British government proposal to reform divorce law by using mediation rather than traditional court proceedings to resolve marital disputes. The purpose of the proposal was to simplify divorce law and cut down on the use of government aid to fund divorce proceedings by solicitors. Author argues that the reliance on mediation to solve problems with the British divorce system is inappropriate and serves mainly to complicate divorce law. Author suggests fixing solititors' fees as a more proper, and simple, means of achieving the government's ends.

SUBJ MATTER: INT'L./ MED: RELATED PROCESSES-
GENERAL/ INST NATURE: JUSTICE SYSTEM-FAMILY COURTS/

SUBJ MATTER: FAMILY (DOMESTIC REL)

Davis, Hal. "Banks follow brokerages: arbitrate yes, litigate no; plaintiffs' attorneys say forcing consumers to arbitrate disputes will eliminate class actions and is unfair". The National Law Journal; September 12, 1994; 17(2): p. B1, col. 3.

Article explains how a California ruling granted banks the ability to limit the forum for resolving customer bank account and credit card disputes. Banks are able to adopt arbitration clauses into adhesion contracts entered into with customers. Opponents and proponents alike questioned whether ADR could be fair in a situation involving parties with unequal bargaining power.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: CONSUMER/ REQUIREMENTS: CONTRACTUAL CLAUSES.

Davis, Jeffrey T.. "Arbitration or stipulation: playing word games in the federal courts". Journal of Dispute Resolution; Fall, 1994; 1994(2): pp. 273-87.

Article discusses the case of DDI Seamless Cylinder v. Gen. Fire Extinguisher Corp. which concerns who can be an arbitrator. In this case, the court held that although parties were bound to an agreement utilizing an alternative procedure to resolve this dispute, it is not within the power of a federal judge or magistrate to act as an arbitrator for that dispute.

ARB: SERVING AS ARBITRATOR/ ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR.

Davis, Robert H.. "NAFTA: resolving international payments conflicts". Dispute Resolution Journal; September, 1994; 49(3): pp. 76-87.

Article illustrates that wide gaps exist in national and international law in providing for the resolution of trans-border disputes. Despite the fact that international accords such as NAFTA provide for the settlement of individual disputes, parties must continue to pay careful attention to choice of law and choice of forum contract provisions.

ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER: INT'L/ SUBJ MATTER: CORPORATE.

Davis, Rob. "Negotiating personal injury cases: a survey of attitudes and beliefs of personal injury lawyers" (Australia). Australian Law Journal;

October, 1994; 68(10): pp. 734-51.

Article examines a survey of 105 SE Queensland solicitors.

Author concludes that the pattern of results indicates that early on in a case, plaintiffs and defendants have differing interests that hinder settlement. Author also indicates that settlement motivations are high just prior to trial.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/
NEG: PSYCH CONSIDERATIONS/ SUBJ MATTER: INT'L/ SUBJ
MATTER: OTHER TORTS/ ROLE OF LAWYERS/ TYPE OF
SOURCE: CASE STUDY/RESEARCH REPORT.

DeBenedictis, Don J.. "Struggling toward recovery: courts hope that belt-tightening lessons from the recession will help them make it through the '90s". ABA Journal; August, 1994; 80: pp. 50-55.

Article explores the reaction of the justice system to the recession of the early 1990's by focusing on specific strategies of representative court systems. Author refers to ABA Journal-Gallup poll indicating that cutting arbitration and mediation expenditures is a favored method of reducing costs.

ARB: MANDATORY, COURT-ANNEXED- FEES & FUNDING/
ARB: MANDATORY, COURT-ANNEXED- FINANCIAL
DISINCENTIVES/ INST NATURE: JUSTICE SYSTEM- GENERAL/
TYPE OF SOURCE: CASE STUDY/ RESEARCH REPORT.

DeGaris, Annelsey H.. "The role of Federal Court judges in the settlement of disputes". University of Tasmania Law Review; October, 1994; 113(2): pp. 217-36.

Article examines perceptions Australian Federal Court judges have of their role in the settlement of disputes. Author concludes, after examining results of surveys distributed to Australian judges and judges in five other countries, that judges should play an important, yet limited role in the settlement process.

TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/
COMPARISONS: HISTORICAL/ JUDICIAL PARTICIPATION

Denenberg, Tia Schneider; Denenberg, R. V.. "The future of the workplace dispute resolver". Dispute Resolution Journal; June, 1994; 49(2): pp. 48-57.

Article states that the general decline of collective bargaining and increase in statutory rights of individual employees has changed the nature of the workplace dispute to focus more on

the individual employee. Article discusses the suitability of application of ADR to the increasing number of non-union workplace disputes.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS).

Desmond, John P. "Michigan's medical malpractice reform revisited - tighter damage caps and arbitration provisions". Thomas M. Cooley Law Review; January, 1994; 11(1): pp. 159-83.

Author offers in-depth review of possible constitutional problems with the Michigan Legislature's tighter restriction on the medical malpractice liability system. Among such topics addressed are damage caps and new provisions on voluntary binding arbitration. Author concludes that the damage cap and arbitration provisions are ineffective in reducing health-care costs.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: MEDICAL MALPRACTICE/ LEGISLATION.

Deye, James B.; Britton, Lesly L. "Arbitration by the American Arbitration Association". North Dakota Law Review; Spring, 1994; 70(2): pp. 281-94.

Article provides an overview of arbitration methods used by the American Arbitration Association and refutes a number of common misconceptions about arbitration. Author recommends arbitration as a helpful technique for parties who wish to have their disputes resolved by a method other than litigation.

SELECTION OF APPROPRIATE PROCESS/ ARB: MANDATORY, COURT- ANNEXED- GENERAL.

Deyo, Russell C. "Building ADR clauses into your contracts". Corporate Counsel's Quarterly; October, 1994; 10(4): pp. 56-61.

Article explains how to fit ADR clauses into contracts.

REQUIREMENTS: CONTRACTUAL CLAUSES.

Dilts, David A. "The consumer price index as a standard in negotiations and arbitration". Journal of Collective Negotiations in the Public Sector; Fall, 1994; 23(4): pp. 279-86.

Article examines the Consumer Price Index (CPI) to determine what the data implies about the cost or standard of living.

Author specifically seeks to show how to get the most benefit

from the use of this data within the context of public sector negotiations and arbitration.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/
 NEG: TACTICS, STRATEGIES AND TECHNIQUES- USE OF OBJ/
 SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: PUBLIC
 POLICY.

Dolinar, Hans. "New perspectives in international commercial arbitration in Europe". Georgia State University Law Review; March, 1994; 10(3): pp. 519-40.

Article describes two elements of an arbitration system in Europe. The first element is a network of arbitration courts promoting dispute resolution across the various borders. The second element is the amount of expert knowledge utilized in the network of arbitration courts. Article further notes that this system is functioning primarily in Eastern Europe.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST
 NATURE: JUSTICE SYSTEM-OTHER/ SUBJ MATTER: INT'L.

Donovan, Karen. "Arbitration suit attracts amicus briefs; U.S. High Court to decide if investors can get punies". The National Law Journal; December 5, 1994; 17(14): p. B1, col. 1.

Supreme Court to hear challenge to Garrity Rule, which prohibited investors from receiving punitive damages in securities arbitrations.

SUBJ MATTER: PUBLIC POLICY/ SUBJ MATTER: SECURITIES.

Donovan, Karen. "BoFA argues pre-emption in its defense; bank claims federal law blocks suit on arbitration". The National Law Journal; April 4, 1994; 16(31): p. B1, col. 1.

Article examines a suit to enjoin the Bank of America from enforcing a clause that it introduced by slipping a notice into customer statements in 1992. The clause requires that customers settle disputes through binding arbitration rather than the court system. To fend off the consumer challenge, BoFA urges the judge to rule that the plaintiffs' state law claims are pre-empted by the Federal Arbitration Act.

ARB: BINDING ARB- GENERAL/ INST NATURE: JUSTICE
 SYSTEM- OTHER CIVIL COURTS/ SUBJ MATTER: CONSUMER/
 REQUIREMENTS: CONTRACTUAL CLAUSES/ COMPLIANCE
 ISSUES.

Donovan, Karen. "Bound to arbitration? Bank trial to decide; Bank of

America faces a challenge on keeping customers out of court". The National Law Journal; January 17, 1994; 16(20): p. 1, col. 2.

Article examines Bank of America's attempt to force customers to settle disputes by binding arbitration. While the bank argues that arbitration is better for customers, opponents argue that the bank is actually trying to avoid class actions.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: CONSUMER/ FAIRNESS.

Donovan, Karen. "Lawyer offers piece of the Rock; trolling for Pru clients". The National Law Journal; January 31, 1994; 16(22): p. 3, col. 1.

Article addresses options available for investors under a settlement agreement reached between Prudential and Securities and Exchange Commission. Arbitration is suggested because of the availability of attorney fees and perhaps punitive damages.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SETTLEMENT: PRESSURES TO SETTLE/ SUBJ MATTER: REGULATORY/ SUBJ MATTER: SECURITIES.

Donovan, Karen. "Macy's mediation signals new push on reorganizations". The National Law Journal; March 7, 1994; 16(27): p.21.

Article discusses the use of mandated mediation in a recent bankruptcy case to resolve disputes over the reorganization plan itself. Author reports that the formal mediation program instituted by U.S. Bankruptcy Court for the Southern District of New York is part of a more general increase in utilization of ADR by bankruptcy courts nationwide.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: JUSTICE SYSTEM-OTHER/ COURT REFORM.

Donovan, Karen. "Searching for ADR stars, in commercial ADR services, the real fight for business is among individual mediators". The National Law Journal; March 14, 1994; 16(28): p.1.

Article discusses competition for, and distinctions among, mediators themselves. Author argues that judges may not always make the best mediators. Author also outlines commercial ADR service techniques for procuring professional mediators.

MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ INST

NATURE: PRIVATE, PROFIT-MAKING.

Donovan, Karen. "SEC mulls rule on speeding fired brokers' arbitrations; on the outs with their employers and deprived of earning a living, brokers want cases to be heard fast". The National Law Journal; May 23, 1994; 16(38): p. B1.

The SEC is considering a rule that would put an end to the "Merrill Lynch" strategy of filing suit against a broker, which effectively delays arbitration of the dispute. The SEC rule would instead allow for expediated arbitration. The brokerage firms claim that if the SEC rule is approved, it will create an additional right that is not part of the securities contract.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ
MATTER: SECURITIES.

Douglas, Frederick L.. "Collective bargaining under the Family and Medical Leave Act". Labor Law Journal; February, 1994; 45(2): pp. 102-09.

Article summarizes important provisions of the Family and Medical Leave Act (FMLA) as the act relates to the requirement of private employers to collectively bargain with unions. Author believes that organized labor has an advantage during collective bargaining, since unions seek greater benefits for members while employers want to control costs and promote efficiency. Author recommends careful planning and strategy on part of employers when negotiating.

SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/
SUBJ MATTER: FAMILY (DOMESTIC RELATIONS).

Douglas, Joel M.; Maier, Lynn J.. "Bringing the parties apart: divorce mediation's debt to labor arbitration". Dispute Resolution Journal; September, 1994; 49(3): pp. 29-37.

Article compares divorce mediation to development of labor relations mediation. Proposes mandated divorce mediation.

REQUIREMENTS: MANDATE TO USE/ COURT REFORM/ SUBJ
MATTER: FAMILY (DOMESTIC REL)/ SUBJ MATTER:
LABOR-GENERAL.

Drager, Christine. "Alternative routes to solutions for environmental law". Res Gestae; September, 1994; 38(3): pp. 35-38.

Author proposes ADR as an appropriate option for environmental law. Traces the progress of environmental mediation in the state of Indiana.

**SUBJ MATTER: ENVIRONMENT/ ECONOMIC ADVANTAGES
OF ADR/ 3RD PARTY: TRAINING.**

Dubler, Nancy N. & Marcus, Leonard J.. "Mediating Bioethical Disputes: Community Health Outreach Worker Programs". New York, New York: United Hospital Fund of New York; 1994.

Authors discuss mediation of common bioethical disputes, which commonly include how much care to provide, suspension of care, and how to allocate resources. Authors provide a learning tool for those who wish to learn more about mediating bioethical disputes. The book is the final product of a project designed by a wide range of representatives and instituted as a mediation program for a hospital staff.

**SUBJ MATTER: HOSPITALS/ MED: RELATED
PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND
STRATEGIES.**

Dunworth, Terence; Kakalik, James S.. "Preliminary observations on implementation of the pilot program of the Civil Justice Reform Act of 1990". Stanford Law Review; July, 1994; 46(6): pp. 1303-37.

Article reviews design of Civil Justice Reform Act of 1990.

Article concludes that case-management procedures vary greatly among the various district courts, and the Act has increased this variation. Some districts have moved aggressively to implement the policies of the Act, while others remain more cautious. However, authors note that even in districts that did not change greatly, the implementation process of the Act has heightened sensitivity of lawyers, judges and clerks to problems of litigation costs and delays.

**INST NATURE: JUSTICE SYSTEM- GENERAL/ INST NATURE:
JUSTICE SYSTEM-OTHER/ SUBJ MATTER: GOV'T/ COURT
REFORM.**

Dwyer, Debra Sabatini. "Negotiating Health Insurance in the Workplace: A Basic Guide" (book review). Industrial and Labor Relations Review; April, 1994; 47(3): pp. 522-23.

Author reviews Negotiating Health Insurance in the Workplace: A Basic Guide and describes it as a complete guide to understanding the current health system in the United States for both union and management negotiators. Author recommends the book as a reference to be used when alterations to a health plan are under consideration.

**NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/
SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER:**

EMPLOYMENT (NON-UNIONS)/ SUBJ MATTER: INSURANCE/
TYPE OF SOURCE: BOOK REVIEW.

EchoHawk, Larry. "Idaho may be ready for a full-scale ADR program".
Advocate; August, 1994; 37(8): p. 7.

Author advocates development of a court-annexed ADR program in Idaho, specifically because the court system functions so smoothly in Idaho. Outlines present efforts and future plans for implementation of ADR programs in Idaho at the Supreme Court level and in the Attorney General's office.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST
NATURE: JUSTICE SYSTEM- GENERAL/ ECONOMIC
ADVANTAGES OF ADR.

Ehrenberg, Daniel S.. "Rejecting collective bargaining agreements under Section 1113 of Chapter 11 of the 1984 Bankruptcy Code: resolving the tension between labor law and bankruptcy law". Journal of Law and Policy; Annual, 1994; 2(1): pp. 55-97.

Article explores the interaction between bankruptcy law and labor law. Article examines circumstances where a debtor-in-possession can reject a collective bargaining agreement under section 1113 of Chapter 11 of the 1984 Bankruptcy Code. Author attempts to develop a standard for the application of section 1113 that will reconcile the competing interests of bankruptcy law and labor law.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/
SUBJ MATTER: CORPORATE/ SUBJ MATTER:
LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: PUBLIC
POLICY/ LEGISLATION.

El-Ahdab, Abdul Hamid. "Saudi Arabia accedes to the New York Convention". Journal of International Arbitration; September, 1994; 11(3): pp. 87-91.

Article examines an abrupt turnaround in Saudi Arabia's views regarding international arbitration and a recent ratification of the 1958 New York Convention of the Recognition and Execution of Foreign Arbitral Awards. The ratification of the Convention improves chances that a foreign arbitration award will be honored by Saudi courts because the burden of proof as to the binding effect of an arbitration decision is put on the defendant. Questions remain, however, regarding whether the Saudi courts will take advantage of the Convention's authorization to refuse awards which threaten

"public order."

INST NATURE: GENERAL/ SUBJ MATTER: INT'L.

Ellickson, Robert C.. "Order Without Law: How Neighbors Settle Disputes". Cambridge, Massachusetts: Harvard Press; 1994.

This book examines the resolution of cattle-trespass disputes. The author focuses upon the politics of cattle trespass and the effects of closed-range ordinances. The book concludes by suggesting that lawmakers who are unappreciative of the social conditions that foster informed cooperation are likely to create a world in which there is both more law and less order.

Elombi, George. "ICSID awards and the denial of host state laws" (International Convention on the Settlement of Investment Disputes). Journal of International Arbitration; September, 1994; 11(3): pp. 61-68.

Article illustrates that those involved in contracts with governments in developing countries often do not trust the native legal system to resolve disputes. The International Convention on the Settlement of Investment Disputes (ICSID) attempted to find a compromise which would respect both domestic and international law. While some progress has been made, ICSID forums still prefer the application of international law where any ambiguity or anomaly regarding native law exists.

INST NATURE: GENERAL/ INST NATURE: JUSTICE SYSTEM-GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T CONTRACTS/ SUBJ MATTER: CORPORATE/ SUBJ MATTER: INT'L.

Erickson, William H.. "Limited discovery and the use of alternative procedures for dispute resolution". Denver University Law Review; Winter, 1994; 71(2): pp. 303-23.

Argues that automatic disclosure provisions in Rule 26 of the Federal Rules of Civil Procedure will encourage the use of ADR by decreasing the number of contested issues.

REQUIREMENTS: STATUTORY OR RULES.

Estreicher, Samuel. "Collective bargaining or 'collective begging'? reflections on anti-strikebreaker legislation". Michigan Law Review; December, 1994; 93(3): pp 577-608.

Article examines problems workers have had with the U.S. Supreme Court's 1938 Mackay Radio opinion which allows

employers to hire permanent replacements for economic strikers in order to maintain operations during a strike. Author feels that the role of the strike and strike replacements belongs in NLRA. Author concludes that his model would align collective bargaining under current conditions with the central premise of NLRA better than proposed reforms would.

SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: LABOR-GENERAL/ COURT REFORM.

Falik, William A.. "Mandatory mediation would help prevent land-use case abusers". The Los Angeles Daily Journal; February 10, 1994; 107(28): p. 7, col. 1.

Article gives overview of 1993 reforms in California Environmental Quality Act (CEQA) which were designed to streamline paperwork, eliminate unnecessary litigation, and make other CEQA litigation more efficient. Author believes that CEQA should make mediation mandatory within 20 days after CEQA matter is instituted in order to save costs.

SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: REGULATORY.

Farber, Henry S.; White, Michelle J.. "A comparison of formal and informal dispute resolution in medical malpractice". Journal of Legal Studies; June, 1994; 23(2): pp. 777-806.

Article provides a comparison between the traditional lawsuit method and a voluntary dispute resolution approach to resolving medical malpractice cases. Authors emphasize that dispute resolution can be used as a cost-effective method for patients to obtain information about the quality of their medical care and thus the probability of negligence.

SUBJ MATTER: MEDICAL MALPRACTICE.

Farmer, Amy; Pecorino, Paul. "Pretrial negotiations with asymmetric information on risk preferences". International Review of Law and Economics; September, 1994; 14(3): pp. 273-81.

Article starts with the assumption that risk preference plays an important role in determining whether parties will agree to settle or not. Article compares English and American dispute resolution systems and concludes that policies which raise the riskiness of trial outcomes tend to encourage the frequency of trial by increasing the incentive to sort between risk types. Furthermore, types of cases in which the trial outcome is more risky will likely be taken to trial more often.

INST NATURE: GENERAL/ SETTLEMENT: PRESSURES TO
SETTLE/ COMPARISONS: CROSS-CULTURAL.

Faulkes, Wendy. "The dispute resolution industry - defining the industry and establishing competencies". Australian Dispute Resolution Journal; November, 1994; 5(4): pp. 285-91.

Article addresses need for a common set of definitions and consistent standards for dispute resolution. Article proposes definitions for mediation, arbitration, adjudication, facilitation, etc. Emphasizes importance of using appropriate dispute resolution process for type or stage of dispute.

SELECTION OF APPROPRIATE PROCESS.

Fazzi, Cindy. "Alcohol and Drugs in the Workplace" (book review). Dispute Resolution Journal; June, 1994; 49(2): p. 86.

A review of Barbara Butler's book which discusses, in part, the role of arbitrators in resolving disputes stemming from drugs in the workplace. Article characterizes Butler's book as well researched and specifically recommends it for labor arbitrators who are seeking background information on this subject matter.

TYPE OF SOURCE: BOOK REVIEW/ SUBJ MATTER:
LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT
(NON-UNIONS).

Fazzi, Cindy. "Arbitration 1993: Arbitration and the Changing World of Work". (book review). Dispute Resolution Journal; September, 1994; 49(3): p. 94.

Book discusses issues confronting labor arbitrators today. Includes committee reports of studies on alternative labor dispute resolution. Also discusses how decline of unionism in the U.S. has affected the labor-management arbitrator.

TYPE OF SOURCE: BOOK REVIEW/ SUBJ MATTER:
LABOR-MANAGEMENT (UNIONS).

Fazzi, Cindy. "A Guide to Divorce Mediation: How to Reach a Fair, Legal Settlement at a Fraction of the Cost" (book review). Dispute Resolution Journal; June, 1994; 49(2): p. 86.

A review of Gary Friedman's book on divorce mediation. Article notes the skill with which Friedman, a divorce mediator, translates his experiences into vivid illustrations of points he wishes to emphasize. Book is recommended as a source of guidance for mediation enthusiasts, therapists,

and marriage counselors.

TYPE OF SOURCE: BOOK REVIEW/ SUBJ MATTER: FAMILY (DOMESTIC REL).

Fazzi, Cindy. "Today's school days: readin', writin' & ADR". Dispute Resolution Journal; September, 1994; 49(3): pp. 73- 75.

Article notes the recent trend among law schools of adding more ADR classes and programs as ADR becomes more prevalent throughout society. Author points out that it is also being offered increasingly at undergraduate institutions.

SUBJ MATTER: EDUCATION/ INST NATURE: GENERAL.

Feerick, John D.. "Alternative dispute resolution helps litigants solve problems". New York Law Journal; May 2, 1994; 211(83): p. S4.

Article recommends that ADR be further institutionalized and adopted as a dispute resolution process. Author points out that our court system was not originally designed to handle the complex social problems that are now thrust upon it. ADR is a better solution than the traditional adversary system, and lawyers must undertake the reforms necessary to entrench it.

ARB: BINDING ARB- GENERAL/ ARB: MANDATORY, COURT-ANNEXED- GENERAL.

Field, Rachel. "Japanese family law: an introduction and inquiry into why the courts really are a last resort". Australian Dispute Resolution Journal; May, 1994; 5(2): pp. 123-34.

Article gives a brief historical development of Japanese family law and in particular traditional approaches to marriage and divorce. Article explains the modern divorce law in Japan and the preference of Japanese to use mutual agreements and mediation. Author claims Japanese reluctance to litigate, notions of profitability in divorce settlements, and institutional barriers of the judicial system, all influence the choice toward non-litigious divorce proceedings in Japan.

MED: PSYCH FACTORS/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ COMPARISONS: HISTORICAL/ SUBJ MATTER: INT'L.

Fitzpatrick, Robert B.. "Nonbinding mediation of employment disputes". Trial; June, 1994; 30(6): pp. 16-20.

Article advocates use of ADR techniques for labor disputes despite scepticism of parties. Author suggests ways to decide whether mediation is a viable option and provides 10

keys to successful mediation in employment cases.

MED: RELATED PURPOSES- THEORY AND STRATEGIES/ SUBJ
MATTER: LABOR-GENERAL/ MED: OBTAINING AGREEMENT TO
USE.

Fizel, John L.. "Play ball: baseball arbitration after 20 years". Dispute
Resolution Journal; June, 1994; 49: pp. 46-47.

Article discusses pros and cons of arbitration between
baseball players and team owners for salary disputes. Author
discusses proposals from both sides but is not sure any
agreement on a method will soon be reached.

NEG: USE OF AGENTS/ ARB: FINAL OFFER ARB/ SUBJ
MATTER: SPORTS & ENTERTAINMENT/ AGREEMENT ON
PROCEDURE.

"The FLBA conciliation scheme". Family Law; September, 1994; 24: pp.
527-29.

Article examines Family Law Bar Association (FLBA)
scheme to promote resolution of family financial disputes.
Article claims scheme provides an impartial, confidential and
economical recommendation on how to settle disputes.

NON-BINDING RECOMMENDATION PROC- GENERAL/ INST
NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER:
FAMILY (DOMESTIC REL).

Foley, David R.. "Reigning in the non-neutral arbitrator". New York Law
Journal; April 8, 1994; 211(67): p. 1, col. 1.

Article examines commercial arbitration where three-arbitrator
panels are usually utilized. Often, two of the three arbitrators
in the panel may be party-appointed non-neutral arbitrators;
the third arbitrator is neutral, appointed either jointly by the
first two or under impartial auspices. Article states that while
there are advantages to this widely used method of
appointment, the arbitration process can be tarnished by the
unduly partisan conduct of non-neutral party-appointed
arbitrators. Article examines the steps that can be taken to
avert and mitigate such episodes.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB:
SELECTION OF ARBITRATOR/ ARB: SERVING AS ARBITRATOR/
SUBJ MATTER: COMMERCIAL/ 3RD PARTY: SELECTION.

Folger, Joseph P. & Jones, Tricia S. editors. "New Directions in
Mediation: Communication Research and Perspectives". Thousand Oaks,

California: Sage Publications, Inc.; 1994.

Discusses the assumptions, strengths, and limitations of adopting a communication perspective on mediation. The communication perspective is broken into sections regarding discourse in mediation; impact of social, institutional, or cultural influences on mediation intervention; and perspectives for third-party practitioners.

MED: ENCOURAGING COMM AND NEG/ RELATION TO ONGOING LITIGATION.

Forde, Michael. "Arbitration Law and Procedure". Portland, Oregon: The Round Hall Press; 1994.

Explores the rules on domestic arbitration in Ireland.

SUBJ MATTER: FAMILY (DOMESTIC REL)/ ARB:
MANDATORY, COURT- ANNEXED- GENERAL/ SUBJ MATTER:
INT'L.

Foster, Hamar. "Conflict resolution during the fur trade in the Canadian North West". Cambrian Law Review; Annual, 1994; 25: pp. 127-35.

Author notes the informality and local nature of conflict resolution in Western fur trade. From 1803-1859, Indian law and trading company disciplinary measures, ranging from corporal punishment to wage cuts, dominated conflict resolutions. The author attributes this in part to the impracticality of long distance justice.

COMPARISONS: HISTORICAL.

Foster, Nigel. "The New Conciliation Committee under Article 189b EC". European Law Review; April, 1994; 19(2): pp. 185-94.

Article examines the Conciliation Committee established under the Treaty on European Union. Author states that its purpose is to break deadlocks or conflicts of opinion between the European Parliament and the Council of Ministers in the legislative procedure, where a proposal might otherwise fall as a result of the possible veto of the European Parliament.

INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L.

Fox, Martin. "Attorneys praise alternative methods to settle disputes". New York Law Journal; May 26, 1994; 211(101): p. 1.

Article discusses an ADR conference held by the Conference Board, a non-profit organization. Participants at the conference praised the many merits of ADR. The speed, effectiveness, and flexibility of ADR were particularly

highlighted during the two-day conference.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB:
FINAL OFFER ARB/ SELECTION OF APPROPRIATE PROCESS.

Fox, Mary Ellen. "Views differ on family court mediation bill".
Pennsylvania Law Weekly; April 18, 1994; 17(16): p. 1, col. 1.

Evaluation of proposed Pennsylvania legislation governing the use of mediation in divorce proceedings. Proponents argue that family disputes should not be resolved in court. Opponents argue that mediation is not successful in divorce proceedings.

MED: PUBLIC POLICY DIALOGUE/ MED: PSYCH FACTORS/
SUBJ MATTER: FAMILY (DOMESTIC REL).

Franchini, John D.. "International arbitration under UNCITRAL Arbitration Rules: a contractual provision for improvement". (Happy Birthday Bretton Woods: 50 Years on International Financial and Trade Regulation). Fordham Law Review; May, 1994; 62(7): pp. 2223-44.

Article is a broad review of the United Nations Commission on International Trade Law and the arbitration rules it developed to arbitrate international trade disputes. Author argues that the UNCITRAL Arbitration Rules served the Iran-United States Claims Tribunal well, but that contractual provisions should be added to solve ambiguity in some rules.

SUBJ MATTER: INT'L/ TYPE OF SOURCE: CASE
STUDY/RESEARCH REPORT/ ORGANIZATION POLICIES AND RULES.

French, R.S.. "The National Native Title Tribunal - early directions".
Australian Dispute Resolution Journal; August, 1994; 5(3): pp. 164-84.

Article sets out early approaches used by the NNTT to mediate disputes involving titles, rights, and compensation. Emphasizes the importance of the consultative approach used by the Tribunal to elicit trust and cooperation among the parties.

SUBJ MATTER: GOV'T/ JUDICIAL PARTICIPATION/
COMPARISONS: HISTORICAL/ COMPARISONS:
CROSS-CULTURAL.

Friedlander, Julie A.. "Punitive damages as a remedy for discrimination claim arbitrations in the securities industry". Hofstra Law Review; Fall, 1994; 23(1): pp. 225-45.

Article examines the authority of arbitration panels in the

securities industry to award punitive damages within the context of mandatory arbitrated discrimination claims. Author evaluates the positive and negative implications of granting arbitrators the power to award punitive damages.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: SECURITIES.

Friedman, Raymond A.. "Front Stage, Backstage: The Dramatic Structure of Labor Negotiations". Cambridge, Massachusetts: The MIT Press; 1994.

Author first engages in a comprehensive survey of the traditional labor relations negotiation process. Next, the author investigates how social forces affect the negotiation process made, then develops a dramaturgical model of the labor negotiation process. Author also presents several case studies to illustrate how the traditional process of negotiation has been successfully altered.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL-GENERAL / SUBJ MATTER: LABOR-GENERAL / TYPE OF SOURCE: CASE STUDY / RESEARCH REPORT

Gabel, Steven R.. "High/low settlement agreements: method for dispute resolution". Michigan Bar Journal; January, 1994; 73(1): pp. 74-75.

Article describes a high/low settlement agreement as one which places a ceiling and a floor on the amount awarded during a trial and which, pursuant to Michigan law, is binding if made in open court. Author discusses the advantages and disadvantages of high/low settlement agreements, examines factors to consider, and concludes that courts should permit and enforce high/low settlement agreements.

SETTLEMENT: AUTHORITY/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD.

Gacek, Stanley A.. "Revisiting the corporatist and contractualist models of labor law regimes: a review of the Brazilian and American systems". Cardozo Law Review; August, 1994; 16(1) pp. 21-110.

Author juxtaposes the American and Brazilian labor law regimes to illustrate differences in the corporatist and contractualist models. In addition to critically synthesizing existing authority on the subject, author summarizes the dispute settlement procedures built into the pre-1988 Brazilian system.

NEG: USE OF BARGAINING TEAMS/ ARB: MANDATORY,

COURT- ANNEXED- GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ
MATTER: LABOR-MANAGEMENT (UNIONS)/ COMPARISONS:
CROSS-CULTURAL.

Gamman, John K. "Overcoming Obstacles in Environmental Policymaking: Creating Partnerships Through Mediation". Albany, NY: State University of New York Press; 1994.

Looks at international environmental conservation and development by profiling the Caribbean Island nations of St. Kitts, St. Lucia, and Barbados. Author argues that efforts to protect natural resources in these areas are failing, and that environmental policy can only be accomplished using a modified negotiation/mediation strategy.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/
NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-
COOPERATIVE/ NEG: W/ OR W/O ASSIST OF 3D PARTY
NEUTRAL- ECONOMIC/ MED: RELATED PROCESSES-GENERAL/
INST NATURE: GOV'T ENTITIES.

Garfield, Franklin R. "Arbitrators can write their own rules". The Los Angeles Daily Journal; September 8, 1994; 107(172): p. 6, col. 3.

Rules of evidence do not apply in arbitration proceedings in California. Typical also of private arbitration proceedings and in the American Arbitration Association rules.

Arbitrators are judge and jury and must decide what weight to give to offered evidence.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB:
CLIENT REP/ ARB: JUDICIAL REVIEW/ ARB: PRIVATE JUDGING.

Gee, Tony; Urban, Patricia. "Co-mediation in the family court". Australian Dispute Resolution Journal; February, 1994; 5(1): pp. 42-48.

Article discusses the "co-mediation" model for resolving intra-familial disputes concerning finances, property and children. Model consists of two mediators (one man and one woman), one lawyer and one social scientist who mediate family disputes. Article examines positive and negative aspects of the model.

SUBJ MATTER: FAMILY (DOMESTIC REL).

Geisert, Gene, Ph.D. & Lieberman, Myron, Ph.D. "Teacher Union Bargaining: Practice and Policy". Chicago: Precept Press; 1994.

Written mainly from the school board, or management, perspective, the book combines the practical with the

conceptual and policy dimensions of negotiations between school boards and teachers' unions. Part 1 provides strategies for success in negotiations, including how to organize a board for collective bargaining and tactics to use in negotiating with teachers' unions. Part 2 presents various public policy issues involved in the teacher bargaining process, including topics such as the diminishment of the democratic process, teacher strikes, binding arbitration for public employees, and educational reform.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/
NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/
NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG:
USE OF BARGAINING TEAMS/ SUBJ MATTER: EDUCATION/ SUBJ
MATTER: LABOR- MANAGEMENT (UNIONS).

Gerlis, Stephen. "Head-banging". Family Law; March, 1994; 24: p. 154.

Article praises the Lord Chancellor's recent so-called "Green Paper" requiring mediation in divorce proceedings. Labeled as "Head-Banging", the courts will force matrimonial disputants to attempt settlement through mediation under some judicial cajolery. Author forecasts positive results from forced mediation.

MED: PUBLIC POLICY DIALOGUE/ MED: RELATED
PROCESSES- GENERAL/ MED: RELATED PURPOSES- THEORY
AND STRATEGIES/ SUBJ MATTER: FAMILY (DOMESTIC REL)/
SETTLEMENT: PRESSURES TO SETTLE/ INST NATURE: JUSTICE
SYSTEM- FAMILY COURTS.

Gifford, Geoffrey, L.. "Real trial lawyers use ADR: a trial lawyer weighs in on behalf of dispute resolution alternatives". Illinois Bar Journal; March, 1994; 82(3): pp. 148-49.

Article predicts that ADR will not replace jury trials, but will help ease court backlogs. ADR saves costs and allows parties more control over cases, because parties exchange information earlier. Backlog may be reduced so that cases go to trial after wait of only two or three years, compared to five to seven years currently for Cook County, Illinois personal injury cases.

MED: PUBLIC POLICY DIALOGUE/ MED: OTHER JUDICIAL
SETTLEMENT DEVICES/ MED: TIMING/ ARB MANDATORY,
COURT- ANNEXED- GENERAL.

Gilbert, James L.; Hare, Francis H., Jr.; Ollanik, Stuart A.. "The price

of silence". (Negotiation and Settlement). Trial; June, 1994; 30(6): pp. 16-21.

Author illustrates abuse of court confidentiality orders and suggests that courts should balance desires for confidentiality against public disclosure more carefully. Author argues that protective orders should not allow parties to perpetuate hazards and should only be used in limited circumstances.

INST NATURE: JUSTICE SYSTEM- GENERAL/
CONFIDENTIALITY/ EFFECT OF PROCESS ON
NON-PARTICIPATORY PARTIES.

Gilson, Ronald J.; Mnookin, Robert H. "Disputing through agents: cooperation and conflict between lawyers in litigation". Columbia Law Review; March, 1994; 94(2): pp. 509-66.

Though not directed specifically at ADR, article addresses behavior of lawyers in resolving disputes and attempts to analyze whether lawyers facilitate or hamper cooperation. Based on anecdotal and empirical data, article represents a "reconnaissance mission" pleading for more research. Article places emphasis on lawyer's reputation with judges and other lawyers as a prime motivating factor to cooperate.

ROLE OF LAWYERS/ DISPUTE PREVENTION/
CONFIDENTIALITY.

Goh, Bee Chen. "Cross-cultural perspectives on Sino-Western negotiation". Australian Dispute Resolution Journal; November, 1994; 5(4): pp. 268-84.

Article discusses importance of recognizing and understanding cultural influences on negotiation style. Article focuses on differences between Western and Chinese negotiation styles; the former are transactional and low context, reflecting egocentric culture, whereas the latter are relational and high context, indicative of homocentric culture.

SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL.

Golden, Joseph A.. "Secrecy clauses, a negotiated restraint on free speech". Michigan Bar Journal; June, 1994; 73: pp. 550-51.

Article discusses secrecy clauses from both an employer's perspective and an employee's perspective. Author finds that both parties can benefit from keeping the settlement agreement and amount secret, and that courts will generally respect such secrecy clauses.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/
SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: CIVIL RIGHTS/
CONFIDENTIALITY.

Goldman, Alvin L.. "Comparative analysis of labor mediation using a bargaining strength model". The Kentucky Law Journal; Summer, 1994; 82(4): pp. 939-68.

Article compares different legal systems to provide a laboratory for observing differences and similarities in the ways in which common regulatory and dispute resolution models operate in similar and dissimilar environments. Article uses that laboratory to illustrate how a bargaining strength model can be applied in analyzing and understanding mediatory interventions. Article provides model for mediator to bring parties closer to settlement.

MED: RELATED PURPOSES- THEORY AND STRATEGIES/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS).

Goldrein, Iain S.. "The Law and Practice Relating to Appeals from Arbitration Awards" (book review). New Law Journal; October 7, 1994; 144(6666): p. 1366.

Book review discusses the work by D. Rhidian Thomas which studies the 1979 law on arbitration in Great Britain, complete with history behind it.

SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW.

Goldsmith, Richard N.; Latz, Martin E.. "Can you lie to a judge if he is a mediator?". Arizona Attorney; October, 1994; 31(2): p. 44.

Article examines an Arizona disciplinary case in which attorneys did not disclose the allocation of attorneys' fees. The settlement was heard by a judge acting as a mediator. Article notes that attorneys in the case were found to have violated ABA Model Rule of Professional Conduct 8.4(d).

INST NATURE: JUSTICE SYSTEM- OTHER CIVIL COURTS/
SUBJ MATTER: GENERAL/ ETHICS: MISREPRESENTATION,
FAILURE TO DISCLOSE/ ETHICS: MISREPRESENTATION,
FAILURE TO DISCLOSE/ ROLE OF LAWYERS.

Goldsmith, Walter D.. "Cooperative and condominium disputes". New York Law Journal; October, 1994; 212(78): p.3, col. 1.

Article provides a general description of arbitration and mediation and their use in the co-op and condominium

contexts. Author provides a case example, and compares the ADR issues in the co-op/condo context to those in the area of residential land leases.

MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB-GENERAL/ ECONOMIC ADVANTAGES OF ADR.

Goldstein, Bernard H. "Arbitration: some basic considerations". New York Law Journal; March 1, 1994; 211(39): p.1.

Article discusses initial questions when choosing whether to arbitrate or to establish an arbitration clause. Author emphasizes practical concerns, including the influence of judicial proceedings, the drafting of the clause, and the optimum situations in which to choose arbitration.

ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/
ARB: CLIENT REP/ ARB: DRAFTING ARB AGREEMENT/
ECONOMIC ADVANTAGES OF ADR.

Goldstein, Bernard H. "Arbitration and conflict resolution". The Practical Real Estate Lawyer; May, 1994; 10(3): p. 95.

Article notes the slow resolution of conflicts in the traditional American jurisprudence system and suggests using arbitration as a more private, expedient way to resolve conflicts. Author offers advice on how to draft arbitration documents and ways to deal with this new process.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB:
DRAFTING ARB AGREEMENT/ ARB: PRIVATE JUDGING.

Goldstein, Jared A. "Employment discrimination claims under ERISA Section 510: should courts require exhaustion of arbitral and plan remedies?". Michigan Law Review; October, 1994; 93(1): pp. 193-233.

Article claims that federal courts have determined that Congress intended individuals bringing claims under ERISA Section 510 to exhaust plan remedies before seeking judicial relief. Author advocates that courts not require individuals to exhaust plan remedies before resorting to court action. However, author notes that separate arbitration agreements, if enforceable, determine whether individuals must exhaust arbitral remedies.

INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER:
LABOR- DISCRIMINATION/ COURT REFORM/ LEGISLATION.

Goodman, Lee. "Preparing your client for mediation". CBA Record; January, 1994; 8(1): pp. 18-22.

Article lists and explains tips on how to prepare a client for mediation. Topics include: helping your client assess the probabilities of winning at trial, finding out what your client truly wants, and helping your client pick a representative. Goodman explores the role of the attorney in mediation and suggests that an attorney in mediation is an advisor. He then offers hints on how to fulfill that role.

MED: REP OF A CLIENT DURING PROCESS/ ROLE OF LAWYERS.

Gordon, Brett R.. "Employee involvement in the enforcement of the occupational safety and health laws of Canada and the United States". Comparative Labor Law Journal; Summer, 1994; 15(4): pp. 527-60.

Article argues that to improve the Occupational Safety and Health Act more than frequent inspections and higher penalties are needed. Author uses Canada's model of health and safety committees to argue for greater employee involvement in the design and inspection of health and safety programs in the workplace.

COMPARISONS: CROSS-CULTURAL/ / SUBJ MATTER: REGULATORY/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ SUBJ MATTER: LABOR- MANAGEMENT (UNIONS).

Grikscheit, Alyssa A.. "The UNCITRAL Framework for Arbitration in Contemporary Perspective". (book reviews). Michigan Law Review; May, 1994; 92(6): pp. 1989-95.

Author critiques Isaak I. Dore's book about UNCITRAL, and includes a general context and discussion of the United Nations Commission on International Trade Law. Author provides a chapter-by-chapter analysis of the book and questions its utility among academics not intimately familiar with the subject.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW/ COMPARISONS: CROSS-CULTURAL/ LEGISLATION.

Grose, Peter R.. "Towards a better tomorrow: a perspective on dispute resolution in aboriginal communities in Queensland". Australian Dispute Resolution Journal; February, 1994; 5(1): pp. 28-41.

Article suggests mediation as a means of resolving conflicts and disputes within aboriginal communities in Australia. Article points out problems arising when an adversarial system of justice is used in aboriginal communities. Author examines

the aboriginal culture and the nature of mediation, concluding that the two are compatible.

MED: PUBLIC POLICY DIALOGUE.

Guo, Xiaowen. "The validity and performance of arbitration agreements in China". Journal of International Arbitration; March, 1994; 11(1): pp. 47-55.

Article gives an overview of requirements for valid, enforceable arbitration agreements under Chinese law. Article also gives examples of cases in which parties erroneously drafted arbitration agreements. Author focuses on case law of China International Economic and Trade Arbitration Commission (CIETAC), the only arbitration organization in China dealing with international commercial disputes.

ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/
ARB: DRAFTING ARB AGREEMENT/ SUBJ MATTER:
COMMERCIAL/ SUBJ MATTER: INT'L.

Hagg, P. Goran, T.. "The economics of trust, trust-sensitive Contracts, and regulation". International Review of Law and Economics; December, 1994; 14(4): pp.437-51.

Effects of trustworthiness on consumers. Effects of contractual and regulatory schemes that are intended to increase trust including insurance, agent-principal, guarantees, etc.

SUBJ MATTER: INSURANCE/ SUBJ MATTER: REGULATORY.

Haight, Fulton. "Jury trials, ADR, and money". For the Defense; January, 1994; 36(1): pp. 9-12.

Article argues that the jury trial is the most "magnificent" method of dispute resolution; however, most Americans cannot afford to have a jury trial. Author suggests that ADR is an important development in the legal system, but it has created a preamble, rather than a replacement, for jury trials.

INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER:
GENERAL/ COURT REFORM.

Hale, Dennis. "ADR and the Minnesota News Council on libel". Dispute Resolution Journal; June, 1994; 49(2): pp. 77-81.

Article discusses the utility of news councils as an alternative to expensive and protracted libel suits. Author notes how the Minnesota News Council has been credited with

the diminished number of libel suits in that state.
SUBJ MATTER: PUBLIC POLICY.

Hall, Michael J.. "Bar mediation plan hit over confidentiality: local bars oppose it". The Los Angeles Daily Journal; April 8, 1994; 107(67): p. 1, col. 1.

Article describes California program under which the State Bar's discipline office would refer some low-level public complaints against attorneys to a local bar mediation panel. Article examines the opposition to the program—the opponents object to providing too much information, citing traditional confidentiality of mediation provisions.

MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ SUBJ MATTER: OTHER PROF MALPRACTICE/ CONFIDENTIALITY.

Hall, Michael, J.. "Governors okay lawyer-client mediation guidelines: L.A. among first 6 centers". The Los Angeles Daily Journal; January 24, 1994; 107(15): p. 4, col. 2.

Article examines the creation of six pilot projects in California which will mediate disputes between disaffected clients and their lawyers. These disputes are not serious enough for formal disciplinary charges against the attorney. Author advocates implementing the program as a step in improving lawyer client relations.

MED: OBTAINING AGREEMENT TO USE/ MED: OPENING AND SETTING GUIDELINES/ SUBJ MATTER: CONSUMER.

Hall, Michael J.. "Panel rules intake office should have done more". The Los Angeles Daily Journal; July 13, 1994; 107(133): p.8.

Article reports that the California State Bar dismissed a mother's complaint over a lawyer's performance in her son's murder case too quickly. A bar appeals panel later found that the bar had not done all it should to investigate the mother's claims. The Complainants Grievance Panel is critical of the bars policy of not investigating conduct in a criminal matter unless the conviction is later reversed due to that conduct.

FAIRNESS/ FISS/ QUALITY CONTROL/ SUBJ MATTER: CRIMINAL.

Halpern, Richard G.. "A safe alternative to structured settlements". Trial; June, 1994; 30(6): pp. 34-35.

Article discusses potential pitfalls of various investment-based structured tort settlements. Author then discusses a specialized settlement fund management trust, with features designed specifically for the protection and cultivation of tort settlement proceeds.

SUBJ MATTER: INSURANCE/ SUBJ MATTER: OTHER TORTS/
SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/
SETTLEMENT: PRESSURES TO SETTLE.

Harper, Conrad K. "Arbitration and U.S. foreign relations: the State Department at work". Dispute Resolution Journal; June, 1994; 49(2): pp. 8-11.

Article discusses arbitration as a viable alternative when countries are unable to resolve their disputes diplomatically. Author provides, as examples, the Heathrow Arbitration between the United States and the United Kingdom, and the continued arbitration of disputes that has grown out of the Iranian Revolution.

SUBJ MATTER: INT'L/ ARB: BINDING ARB- GENERAL.

Harris, Richard. "The mediation of testamentary disputes". Australian Dispute Resolution Journal; August, 1994; 5(3): pp. 222-31.

Article analyzes mediation of probate and domestic issues within families. These disputes involve complex legal and psychological issues, and co-mediation is advocated for cases where gender balance, role modeling, or special expertise is required.

MED: RELATED PROCESSES-GENERAL/ MED: COUNSELING/
MED: PSYCH FACTORS/ SUBJ MATTER: FAMILY (DOMESTIC
REL)/ SUBJ MATTER: PROBATE.

Harrison, Jeffrey L. "Class, personality, contract, and unconscionability". William and Mary Law Review; Winter, 1994; 35(2): pp. 445-501.

Article argues for a redefinition of unconscionability. Also argues that "informal dispute resolution" allows parties to define for themselves what is a just outcome.

ARB: JUDICIAL REVIEW/ SELECTION OF APPROPRIATE
PROCESS.

Hasan, Jannette; Bentley, John. "New law vastly improves arbitration framework". Middle East Executive Reports; September, 1994; 17(9): pp. 8-10.

Article outlines provision of Egyptian Law No. 27 of 1994 on Arbitration and Alternative Dispute Resolution. The law is based on the UNCITRAL Model Law on International Commercial Arbitration and applies to domestic and international arbitration. The new law repeals the requirement that arbitrators be named in an agreement, narrows the grounds on which an arbitration decision may be nullified or stayed, and improves procedures for an appeal of an arbitration decision.

SUBJ MATTER: INT'L/ LEGISLATION.

Haynes, John M. "The Fundamentals of Family Mediation". New York: State University Press of New York; 1994.

Author details the process of mediation and applies mediation theory to the practice of family mediation. Author further details the divorce process, providing a step-by-step guide for the family mediation practitioner. Author explores negotiation strategies for the mediator in managing negotiations with clients. Book is based on author's training program, Fundamentals of Divorce by Mediation.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/
NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/
MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED:
ENCOURAGING COMM AND NEG/ SUBJ MATTER: FAMILY
(DOMESTIC REL).

Hazard, Geoffrey C., Jr. "The litany of grievances is familiar: too slow, too abrasive and too expensive". The National Law Journal; February 14, 1994; 16(24): p. 17, col. 1.

Author describes the American Bar Association's concern over the public dissatisfaction with the legal system. In question is the quality of justice the legal profession is distributing to society. Because many in society cannot afford legal help, the notion that money buys justice is becoming more prevalent among the middle and lower class. Author notes that with the current trimming of the federal government, perhaps justice will be dependent on one's monetary status.

COMPARISONS: HISTORICAL/ ETHICS: GENERAL/ FAIRNESS.

Hellekson, Heidi M. "Taking the "alternative" out of the dispute resolution of Title VII claims: the implications of a mandatory enforcement scheme of arbitration agreements arising out of employment

contracts". North Dakota Law Review; Spring, 1994; 70(2): pp. 435-57.

Article examines the history of the Supreme Court's treatment of Title VII arbitration and focuses on the Court's recent decision in Gilmer v. Interstate/Johnson Lane Corp. Author suggests that Title VII claims should only be arbitrated on a voluntary basis.

SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ SELECTION OF APPROPRIATE PROCESS/ ARB: MANDATORY, COURT-ANNEXED-GENERAL.

Henriksson, Lennart E.. "Drug-testing programs and grievance rates". Journal of Collective Negotiations in the Public Sector; Summer, 1994; 23(3): pp. 211-24.

Author conducted a study to test a justice-based model linking elements of antidrug programs and contextual variables with employee grievance rates. Author used data collected from managers in the urban mass transportation industry. Author suggests that drug-testing grievances are positively associated with the use of random testing as well as with crime and drug-abuse rates.

SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: PUBLIC POLICY/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ FAIRNESS.

Hermanek, Amy. "Title III of the Americans with Disabilities Act: implementation of mediation programs for more effective use of the act". Law & Inequality: A Journal of Theory and Practice; June, 1994; 12: pp. 457-81.

Author argues that Title III of the ADA, which requires the removal of barriers in existing facilities, is not being fully utilized. Author also proposes the implementation of local community mediation dispute resolution programs to achieve Title III's requirements faster and more efficiently.

MED: RELATED PROCESSES-GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: REGULATORY/ SUBJ MATTER: PUBLIC POLICY/ SUBJ MATTER: CONSUMER/ SUBJ MATTER: COMMUNITY/ SUBJ MATTER: CIVIL RIGHTS/ COMPLIANCE ISSUES/ LEGISLATION.

Hirst, Alastair. "Commercial dispute resolution: Oman's evolving system: the Authority for Settlement of Commercial Disputes after its first decade of judicial work". Middle East Executive Reports; February, 1994; 17(2): pp. 9-12.

Article describes the functions of Oman's Authority for the Settlement of Commercial Disputes (ASCD). The ASCD is a tribunal composed of Omani judges, with a minority of lay persons, that hears only commercial disputes. Rulings by the ASCD are based upon concepts of justice derived from Arab jurists and legislative principles, as opposed to a formal written code. Article examines the benefits of the Omani system for resolving commercial disputes.

SUBJ MATTER: INT'L.

Hober, Kaj. "Enforcing foreign arbitral awards against Russian entities". Irvington-on-Hudson, NY: Transnational Juris Publications, Inc.; 1994.

Final dissolution of Soviet state has resulted in increased number of disputes which author attributes to severe payment problems of Russian entities, inexperience of new enterprises and entities, and more complex problems in sale/purchase transactions. Increased number of disputes, coupled with inability to enforce arbitral awards against Russian entities, has given rise to concerns of Western business persons. Discussion focuses upon United States, United Kingdom, Germany, and Switzerland.

ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/

SUBJ MATTER: INT'L.

Hoellering, Michael F.. "The institution's role: managing international commercial arbitration". Dispute Resolution Journal; June, 1994; 49(2): pp. 12-18.

Article discusses the administrative services and theoretical purposes of the American Arbitration Association, World Intellectual Property Organization, and other international arbitration tribunals. Author emphasizes specific methods by which arbitral institutions can further basic principles of alternative dispute resolution.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INT'L/

ORGANIZATION POLICIES AND RULES.

Hoenig, James K.. "The pros and cons of administered arbitration". Dispute Resolution Journal; June, 1994; 49: pp. 59-63.

Article discusses pros and cons of administered arbitration as an alternative to private arbitration. Author favors administered arbitration because it is more often successful than private arbitration.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB:

MANDATORY, COURT-ANNEXED- FEES & FUNDING/ ARB:
MANDATORY, COURT- ANNEXED- FINANCIAL DISINCENTIVES.

Hoenig, James K. "Settle it Out of Court: how to resolve business and personal disputes using mediation, arbitration and negotiation". Dispute Resolution Journal; June, 1994; 49: p. 85.

Author reviews a book by Thomas Crowley, Settle it Out of Court. Author praises the book as one of the best advertisements and how-to books for alternative dispute resolution. Book is touted as one of the "best investments a business person can make."

SUBJ MATTER: COMMERCIAL/ TYPE OF SOURCE: BOOK
REVIEW.

Hoffman, David A. "ADR: an opportunity to broaden the shadow of the law". Human Rights; Winter, 1994; 21(1): pp. 20-21.

Article examines the advantages and disadvantages of alternative dispute resolution with respect to individual rights. Article suggests the necessary preconditions that will ensure fair decisions and protect individual rights when using ADR.

SUBJ MATTER: GENERAL/ SELECTION OF APPROPRIATE
PROCESS/ FAIRNESS.

Hoffman, Diane E. "Mediating life and death decisions". Arizona Law Review; 1994; 36(4): pp. 821-77.

Article examines the theoretical foundations for the use of mediation in termination of life support disputes. Article further describes the nature of the disputes that arise in termination of life support cases and how these disputes are currently dealt with by the courts and ethics committees. Finally, article analyzes the appropriateness of applying mediation to such cases.

MED: RELATED PROCESSES-GENERAL.

Holzman, Amy. "Denial of attorneys' fees for claims of sexual harassment resolved through informal dispute resolution: a shield for employers, a sword against women". Fordham Law Review; October, 1994; 63(1): pp. 245-79.

Article examines importance of informal dispute resolution and recovery of attorney fees under Title VII. Author advocates use of attorneys for women involved in process.

SUBJ MATTER: LABOR-DISCRIMINATION/ COURT REFORM/

FAIRNESS.

Hooten, Michael E.. "Structuring and negotiating international joint ventures". Creighton Law Review; June, 1994; 27: pp. 1013-37.

Article discusses a variety of joint venture structures.

Author suggests that flexibility, fairness and patience are keys to the successful negotiation of a joint venture.

SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: INT'L.

Horowitz, Morris A.. "Collective Bargaining in the Public Sector". New York: Lexington Books; 1994.

Examines public sector organized labor movement. Compares public sector and private sector labor unions. Discusses history of public sector organized labor movement and the wage and non-wage goals of public sector organized labor. Also discusses national security and other restraints on unionization.

SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ INST NATURE: GOV'T ENTITIES.

Hromádka, Erik. "School year ushers in new mediation program". Res Gestae; October, 1994; 38(4): pp. 20-21.

Article discusses the adoption of mediation programs by 12 Indiana elementary schools for the purpose of reducing juvenile violence. Author suggests that mediation skills learned by students will be beneficial when they deal with conflict later in life.

MED: PUBLIC POLICY DIALOGUE.

Hurley, James G., Jr.. "The Tao of Negotiation: How You Can Prevent, Resolve and Transcend Conflict in Work and Everyday Life". (book review). Law Practice Management; April, 1994; 20(3): pp. 57-59.

Author examines the nature of conflict, and contexts within our work and home environments which promote conflict.

Author then demonstrates how conflicts within these contexts can be effectively resolved through Tao of communication or negotiation. Author finally notes how this technique has a dual purpose of resolving conflicts and improving life-satisfaction.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/
NEG: TACTICS, STRATEGIES AND TECHNIQUES- OTHER/ NEG:
CULTURAL CONSIDERATIONS/ NEG: PSYCH
CONSIDERATIONS/ SUBJ MATTER: LABOR-GENERAL/ TYPE OF

SOURCE: BOOK REVIEW.

Hylton, Keith N. "An economic theory of the duty to bargain". Georgetown Law Journal; November, 1994; 83(1): pp. 19-77.

Article presents economic theory of duty to bargain under National Labor Relations Act. Addresses both mandatory, under section eight of NLRA, and permissive bargaining, and duties of parties under each. Mandatory bargaining topics include wages, hours, and terms and conditions of employment.

SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/
REQUIREMENTS: STATUTORY OR RULES.

Irvine, Mori. "Serving two masters: the obligation under the Rules of Professional Conduct to report attorney misconduct in a confidential mediation". Rutgers Law Journal; Autumn, 1994; 26(1): pp.155-85.

Discusses dilemma that attorneys serving as mediators may face. Attorney as mediator may face the choice of either keeping silent about attorney misconduct, violating canons of professional conduct, or reporting the misconduct and violating mediation confidentiality. Various solutions are discussed.

MED: RELATED PROCESSES-GENERAL/ CONFIDENTIALITY.

"Is ADR the Rx for malpractice?" (use of alternative dispute resolution in medical malpractice cases). Dispute Resolution Journal; September, 1994; 49(3): pp. 7-13.

Article examines health care alternative dispute resolution and enterprise liability and their effects on health care reform. Author sets up general principles behind malpractice arbitration and discusses the benefits of utilizing enterprise liability with respect to medical malpractice claims.

SUBJ MATTER: MEDICAL MALPRACTICE/ ARB: BINDING
ARB- GENERAL/ ECONOMIC ADVANTAGES OF ADR.

Isleib, Keith; Kahn, James R.. "Tax strategies can increase the value of settlements". (Negotiation and Settlement). Trial; June, 1994; 30(6): pp. 36-39.

Article offers several options to maximize after-tax returns on settlement payments. Author explores annuities and ways to deal with the death of a beneficiary. Article emphasizes that tax treatment differs according to the way payments are

classified and suggests wording settlement agreements carefully.

SUBJ MATTER: CONSUMER/ SUBJ MATTER: INSURANCE/
SUBJ MATTER: SECURITIES.

Jacobs, David C. "Collective Bargaining as an Instrument of Social Change". Westport, CT: Quorum Books; 1994.

The author attempts to "make the case for collective bargaining as a tool of social change." This work proposes that adversary participation--negotiation of organizational democratization in an adversarial context--enhances worker control in a qualitative fashion, rather than merely a quantitative way. The author uses the case of UAW and GM negotiations at the Saturn plant as one way to persuade the reader that there is a need for "negotiated change and a change in negotiations."

NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-ECONOMIC/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-ECONOMIC/ NEG: TACTICS, STRATEGIES AND TECHNIQUES-COOP TECHNIQUES/ NEG: USE OF BARGAINING TEAMS.

Jacobs, Marcus S. "The separability of the arbitration clause: has the principle been finally accepted in Australia?" Australian Law Journal; September, 1994; 68(9): pp. 629-40.

Article discusses the doctrine of separability of arbitration clauses contained in agreements. Author examines the approach to the doctrine utilized by the United Kingdom, the United States, and several continental countries. Article finally examines Australia's acceptance and entrenchment of the doctrine.

ARB: BINDING ARB- GENERAL/ ARB: DRAFTING ARB AGREEMENT/ COMPARISONS: CROSS-CULTURAL.

Janzen, Peter S. "Trademark license agreement negotiation/ drafting checklist". Corporate Counsel's Quarterly; October, 1994; 10(4): pp. 126-34.

Article contains checklist for attorneys to set up a trademark license. Author provides definitional information, suggested terms of agreement, and factors to consider in determining the best type of license and agreement.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/
SUBJ MATTER: COMMERCIAL/ TEACHING.

Jarvin, Sigvard; Derains, Yves; Arnaldez, Jean-Jacques. "Collection of ICC Arbitral Awards, 1986-1990" (Recueil des sentences arbitrales de la CCI). Deventer, The Netherlands: Kluwer Law and Taxation Publishers; 1994.

Written with both English and French translations, this book is a consolidation of ICC Arbitral Awards from 1986 to 1990. Set up much like a casebook.

SUBJ MATTER: INT'L/ SUBJ MATTER: COMMERCIAL.

Joelson, Mark R.. "GATT pact changes rules of world trade; most comprehensive set of trade agreements ever ratified". Pennsylvania Law Weekly; April 25, 1994; 17(17): p. S2, col. 1.

Article examines settlement dispute panels. These dispute panels are binding on members, however, the standard of review will allow more than one reasonable interpretation.

ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ SUBJ MATTER: INT'L.

Johnson, L. Roger. "The North Dakota Agricultural Mediation Service". North Dakota Law Review; Spring, 1994; 70(2): pp. 295-309.

Article discusses the creation of the North Dakota Agricultural Mediation Service (AMS) and its implementation of both informal and formal mediation in response to farmers' needs. Author supports the continuance of this program, and remarks on the success the North Dakota AMS has had in reaching settlements in difficult agricultural credit situations involving farmers and their creditors.

MED: RELATED PROCESSES-GENERAL/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ SUBJ MATTER: FARM.

Jonkman, P.J.H.. "The new Permanent Court of Arbitration optional rules". ICSID Review - Foreign Investment Law Journal; Fall, 1994; 9(2): pp. 237-358.

Article discusses the recent adoption of two new sets of optional arbitration rules by the Permanent Court of Arbitration at The Hague. The first set of rules is for use in resolving disputes between States, while the second set is for use in disputes between States and non-State parties. Author describes the recommendations of the Expert Group as well as the main differences between the UNCITRAL Arbitration Rules and the Permanent Court of Arbitration Optional Rules. Article includes the text of the Rules in

English and French.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INT'L.

Joseph, Jack. "Courting ADR". CBA Record; January, 1994; 8(1): pp. 14-17.

Maintaining that ADR is a growth industry and that much of the judiciary is enthusiastic about ADR, the article discusses factors to consider in deciding whether to submit a case to ADR. Author then names the following factors to consider: client suitability, the non-binding character of mediation, evidentiary concerns, discovery and witnesses, expense of litigation, confidentiality, multiple and third parties, and time of choice.

SELECTION OF APPROPRIATE PROCESS/ CONFIDENTIALITY/
MED: RELATED PROCESSES-GENERAL.

Kabana, Jeffrey S.. "Reevaluating the nursing home ombudsman role with a view toward expanding the concept of dispute Resolution". Journal of Dispute Resolution; Fall, 1994; 1994(2): pp. 217-33.

Article examines the function of the ombudsman in the context of long-term health care facilities. Article considers the history and purposes of the office of ombudsman, focuses on the traditional methods used to ensure quality of care in the nursing home, and considers the effectiveness of the nursing home ombudsman as an alternative form of dispute resolution.

SUBJ MATTER: GENERAL/ 3RD PARTY: VOLUNTEER OF LAY PERSONS.

Kaganas, Felicity; Piper, Christine. "The divorce consultation paper and domestic violence". Family Law; March, 1994; 24: pp. 143-45.

Article criticizes recent policy paper of the Lord Chancellor's Department requiring mediation for all divorce proceedings. Authors maintain that mediation is not appropriate in divorce cases where domestic violence is present. Referring to the "invisibility of abuse," authors insist that mediation will prejudice the settlement process.

MED: RELATED PROCESSES-GENERAL/ MED:
PUBLIC POLICY DIALOGUE/ MED: PSYCH FACTORS/ SUBJ
MATTER: FAMILY (DOMESTIC REL)/ SETTLEMENT: PRESSURES
TO SETTLE/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS.

Kahn, Bruce. "Applying the principles and strategies of Asian martial arts to the art of negotiation". Albany Law Review; Fall, 1994; 58(1):

pp. 223-41.

Article juxtaposes anecdotes about negotiation sessions with applicable Japanese legends to illustrate suggested negotiating strategies. Author advocates being aware of opponent and not allowing opponent to control flow and rhythm of negotiations. Article describes differences between response and reaction and suggests remaining flexible, being aware of opponent's resources (e.g., time and power) and using surprise to keep opponent off guard.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-COMPETITIVE/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- POWER/ NEG: PSYCH CONSIDERATIONS.

Kalin, Neil D.. "Enforcement of arbitration awards concerning deposits held in escrow". Real Estate Law Journal; Winter, 1994; 22(3): pp. 214-35.

Discusses four possible approaches when an arbitration ruling involving an escrow account is challenged.

ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: GENERAL.

Kaminsky, Harry. "Cave arbitration?... let's get real!". Arizona Attorney; June, 1994; 31: p. 11.

Author responds to an earlier article by noting that it is true that ADR is not appropriate for every dispute. Article then notes, however, that there are substantial cost and timing savings to be had by using arbitration for most disputes. The majority of these savings come from lower attorneys fees, which can be quite substantial.

ECONOMIC ADVANTAGES OF ADR/ ARB: MANDATORY, COURT-ANNEXED- GENERAL.

Kandel, Randy Frances. "Power plays: a sociolinguistic study of inequality in child custody". Arizona Law Review; Winter, 1994; 36(4): pp. 879-972.

Article applies sociolinguistic analysis to three child custody mediation sessions collected during the author's field study in the Los Angeles Superior Court. Author applies a straightforward measure of what constitutes power in mediation through analyzing the "constructed dialogue" which distinguishes mediation from litigation. Author concludes by recommending ten guidelines for the

management of constructed dialogue in mediation.

MED: COUNSELING/ MED: RELATED PROCESSES-GENERAL/
MED: RELATED PURPOSES- THEORY AND STRATEGIES.

Kandel, William, L.; Frumer, Sheri L.. "The corporate ombudsman and employment law: maintaining the confidentiality of communications." Employee Relations Law Journal; Spring, 1994; 19(4): pp. 587-602.

Article discusses the role of the corporate ombudsman in helping employees resolve work related disputes. Article raises problems that the corporate ombudsman must overcome to be successful, such as overcoming employee suspicion of confidentiality and maintaining an employee's confidentiality without having a well recognized privilege such as the attorney-client privilege. Article also discusses the implied contract issues applicable to ombudsmen.

OMBUDSPERSON/ SUBJ MATTER: EMPLOYMENT
(NON-UNIONS)/ SUBJ MATTER: CORPORATE.

Karelis, Kim. "Private justice: how civil litigation is becoming a private institution -the rise of private dispute centers." Southwestern University Law Review; Spring, 1994; 23(3): pp. 621-38.

Article analyzes the rise in the use of private institutions to resolve civil disputes. Author argues that the public civil court system should be used in tandem with the private system. Article states that private institutions could reduce the burden upon public courts and public courts could ensure proper conduct on the part of private institutions.

INST NATURE: PRIVATE, PROFIT-MAKING.

Karim, Ahmad R.. "Why arbitrators sustain discharge penalties." Labor Law Journal; June, 1994; 45(6): pp. 374-78.

Article discusses the primary factors influencing arbitrators in employee discharge cases. Author indicates that known and reasonable rules established by management, use of progressive discipline, credible management witnesses, and employee violations of rules are among the most significant factors that tend to persuade arbitrators to sustain discharges.

SUBJ MATTER: LABOR-GENERAL.

Karper, Mark D.. "Fact finding in public employment: promise or illusion, revisited." Journal of Collective Negotiations in the Public Sector; Fall, 1994; 23(4): pp. 287-97.

Article examines the evolution of the fact-finding process in public sector bargaining in New York State. Article looks at the legal evolution of other impasse mechanisms. Author suggests that fact-finding remains viable as an impasse mechanism for different reasons in 1994 than it did in 1967 as previously shown in Jean McKelvey's 1969 study.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/
NEG: TACTICS, STRATEGIES AND TECHNIQUES- USE OF OBJ/
SUBJ MATTER: GOV'T/ SUBJ MATTER: LABOR-GENERAL/ TYPE
OF SOURCE: CASE STUDY/RESEARCH REPORT.

Kauffman, Nancy; Vanlwaarden, Donna; Floyd, Catherine. "Values and arbitrator selections". Labor Law Journal; January, 1994; 45(1): pp. 49-54.

Article discusses organizations that make a practice of keeping records of arbitrator's demographics in order to learn about an arbitrator's perspective of a situation. Organizations use these values as a predictor of the case's outcome. The authors' study finds that demographics do not provide an edge for predicting outcomes, but that demographics may provide an edge as to how to present information to the arbitrator.

SUBJ MATTER: LABOR-GENERAL/ ARB: SELECTION OF
ARBITRATOR/ TYPE OF SOURCE: CASE STUDY/RESEARCH
REPORT.

Kaufmann, David J.. "A new mediation program." New York Law Journal; April 28, 1994; 211(81): p.3, col. 1.

Article favorably describes the National Franchise Mediation Program, highlighting its first year's successes. Author describes the program in detail, including a discussion of the issues of disclosure in confidence, mediator skill, and mutual acceptability.

MED: RELATED PURPOSES- THEORY AND STRATEGIES/ INST
NATURE: PRIVATE, PROFIT-MAKING/ ECONOMIC ADVANTAGES
OF ADR/ CONFIDENTIALITY/ QUALITY CONTROL.

Kaye, Kenneth. "Workplace Wars and How to End Them: Turning Personal Conflicts into Productive Teamwork". New York, NY: AMACOM Books; 1994.

Author presents a five-step system (Conflict Resolving System or CRS) for resolving organizational conflict that allows conflict to be the basis for productive change. This system includes looking for shared goals, clarifying and evaluating differences, making commitments, analyzing recurrent cycles

of conflict, and making unilateral change if necessary. The system is explained in a straightforward, conversational style, with abundant graphic enhancements (flowcharting, scripting, diagrams).

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/
NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP
TECHNIQUES/ NEG: USE OF BARGAINING TEAMS/ INST
NATURE: PRIVATE, PROFIT- MAKING/ SUBJ MATTER:
COMMERCIAL/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS).

Keating, Daniel. "The continuing puzzle of collective bargaining agreements in bankruptcy". William and Mary Law Review; Winter, 1994; 35(2): pp. 503-49.

Article examines section 1113, the 1984 amendment to the federal bankruptcy code, which allows a company filing chapter 11 bankruptcy to reject a collective bargaining agreement without committing an unfair labor practice. Article examines the courts' interpretations of section 1113 and the questions raised by the decisions. Article then suggests ways in which the courts can resolve the issues raised by previous court decisions.

NEG: USE OF BARGAINING TEAMS/ LEGISLATION/ SUBJ
MATTER: LABOR-MANAGEMENT (UNIONS).

Kelly, Ron. " 'Let's sue the arbitrator'-protections slated to disappear". The Los Angeles Daily Journal; July 11, 1994; 107(131): p.7.

Article reports that although arbitration can be a fair and cost efficient alternative to litigation, new laws may change that. Arbitration may soon have to be conducted with an eye to whether losers will turn around and file suit against an arbitrator whose ruling or award they do not like.

ARB: SERVING AS ARBITRATOR/ SUBJ MATTER: OTHER
PROF MALPRACTICE/ 3RD PARTY: LIABILITY & IMMUNITY/
ECONOMIC ADVANTAGES OF ADR.

Kelner, Joseph; Kelner, Robert S.. "The settling of personal injury cases (part 3)". New York Law Journal; March 22, 1994; 211(54): p.3.

The third in a series, article focuses on negotiation. Author discusses very specific strategies and techniques for effective negotiation, including offers and demands, judicial participation, and evaluation of the opposing attorney.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/
NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/

NEG: TACTICS, STRATEGIES AND TECHNIQUES- OTHER/
SETTLEMENT: PRESSURES TO SETTLE.

Kennedy, Gavin. "Field Guide to Negotiation: A Glossary of Essential Tools & Concepts for Today's Managers". New York: McGraw; 1994.

A practice-oriented handbook designed for quick reference.

Tips, definitions, tactics, and procedures relating to negotiation, organized in a glossary format.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/
NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY:
GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES-
GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES-
PREP/ NEG: TACTICS, STRATEGIES AND TECHNIQUES-
THREATS/ NEG: TACTICS, STRATEGIES AND TECHNIQUES-
OTHER/ DISPUTE NEG. v. DEAL MAKING/ NEG: TACTICS,
STRATEGIES AND TECHNIQUES- COOP TECHNIQUES.

Kennedy, Ruth A.. "Insulating sexual harassment grievance procedures from the chilling effect of defamation litigation". Washington Law Review; January, 1994; 69(1): pp. 235-53.

Comment proposes the adoption of a new grievance procedure privilege to replace the qualified privilege and the intracorporate immunity rule which the author argues will ensure the integrity of grievance procedures while maximizing protection of the accused employee. This grievance procedure, according to the author, would also limit plaintiffs' exposure to defamation liability.

SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: OTHER
TORTS/ FISS/ ORGANIZATION POLICIES AND RULES.

Kerbeshian, Lynn A.. "ADR: to be or....?". North Dakota Law Review; Spring, 1994; 70(2): pp. 381-434.

Article examines the current success of two major dispute resolution techniques; mediation and arbitration. Author views ADR as most effective when the ADR programs are adequately monitored, measured, and promoted.

MED: RELATED PROCESSES-GENERAL/ ARB: MANDATORY,
COURT- ANNEXED- GENERAL/ EFFECT OF PROCESS ON
NON-PARTICIPATORY PARTIES.

Kimberlee K. Kovach. "Mediation: Principles & Practice". St. Paul, Minnesota: West Publishing Co.; 1994.

Author provides a broad overview of mediation techniques,

following the process from preparation to conclusion. Author also discusses the theory and law behind mediation. Problems and exercises are included at the end of each chapter for student usage.

MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES.

King, Henry T., Jr.; LeForestier, Marc A.. "Arbitration in ancient Greece". Dispute Resolution Journal; September, 1994; 49(3): pp. 38-46.

Article examines history of arbitration and international law in ancient Greece. Outlines the rise and fall of the use of arbitration in city-states of Greece and procedures used in arbitration and hearings.

COMPARISONS: HISTORICAL/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL.

Kingsbury, Karen. "Jurist predicts more pro pers; ex-family law attorney encourages mediation". The Los Angeles Daily Journal; February 17, 1994; 107(34): p. 7, col. 1.

Frances A. Kearney, Superior Court Commissioner of Placer County, California, believes that family law and juvenile cases will increasingly involve mediation, conciliation, and pro per litigants. Kearney recommends voluntary mediation program for custody disputes. Article presents biographical and personal information on Kearney, as well as her courtroom policies.

MED: OBTAINING AGREEMENT TO USE/ SUBJ MATTER: FAMILY (DOMESTIC REL).

Kleanthous, Valerie. "Re D, Re D: what can the matter be?". Family Law; January, 1994; 24: pp. 28-29.

Author provides a critique of the role of the "conciliator" in the case Re D, 1 FLR 932. Article explains the basic role of the conciliator. Author argues that conciliation was not appropriate for the specific facts of the Re D case. Specifically, the parties' attitudes toward each other did not create the correct atmosphere for conciliation, and the conciliator performed outside his appropriate role. Author concludes that this case was irrelevant to the conciliation process and mediators should not treat it as a breakthrough case in conciliation.

MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER:

FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: CASE
STUDY/RESEARCH REPORT.

Knight, Jeffery R. "Enforcing arbitration agreements between employers and employees". Defense Counsel Journal; April, 1994; 61(2): pp. 251-59.

Article examines the enforceability of employment-related arbitration agreements. Author emphasizes that the United States Supreme Court is now unwilling to accept general challenges to arbitration as a method for solving claims, that most claims based on federal statutes like Title VII will be subject to compulsory arbitration, and that employers can prevent employees' charges of coercion through full disclosure and adoption of arbitration procedures which ensure fairness.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER:
LABOR-GENERAL.

Knowlton, Douglas D.; Mulhauser, Tara Lea. "Mediation in the presence of domestic violence: is it the light at the end of the tunnel or is a train on the track?". North Dakota Law Review; Spring, 1994; 70(2): pp. 255-68.

Article provides an overview of the relevant issues involved in mediation and family law. Author presents both the arguments for and against the use of mediation in domestic abuse situations.

POWER IMBALANCE/ MED: RELATED PROCESSES-GENERAL/
SUBJ MATTER: FAMILY (DOMESTIC REL)/ EFFECT OF PROCESS
ON NON- PARTICIPATORY PARTIES/ FAIRNESS.

Knutson, Robert A. "The interpretation of arbitral awards: when is a final award not final?". Journal of International Arbitration; June, 1994; 11(2): pp. 119-21.

Article discusses the power to interpret arbitration.

Article suggests how a tribunal should approach such requests and the development of the power to review such requests.

Finally, article examines scope of interpretation power according to common and civil law.

ARB: JUDICIAL REVIEW/ ARB: FINAL OFFER ARB/ ARB:
BINDING ARB- GENERAL.

Kolb, Deborah M. "When Talk Works: Profiles of Mediators". San Francisco, CA: Jossey-Bass Publishers; 1994.

Twelve practitioners of mediation are profiled by members of

the Harvard Law School Program on Negotiation. The profiles are organized by the type of practice; full-time professional, part-time, or occasional. The emphasis is on the ways in which each practitioner, working in a unique capacity in widely-varying fields, uses the traditional methods of mediation to achieve goals. In the concluding section, Kolb synthesizes the successful "traditional" approaches common to all the mediator's styles, while emphasizing that the realities faced in everyday practice do not accommodate a rote application of those same principles to every situation.

MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ INST NATURE: GENERAL/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: COMMUNITY/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT.

Kovach, Kimberlee K.. "Mediation: Principles and Practice"; 1994.

This book combines the theory, law, and practice of mediation into one work. Author gives a general overview of the mediation process and mediator skills, and places considerable emphasis on confidentiality, quality control, and specialized applications of mediation. The inclusion of a variety of views about the mediation process allows the book to be used in teaching and training general principles of the mediation process and serves as a quick reference for both novice and experienced mediators.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ 3RD PARTY: TRAINING/ CONFIDENTIALITY.

Krema, C. Nicholas. "Alternative dispute resolution under the Civil Justice Reform Act and delay reduction plan". Advocate; February, 1994; 37(2): pp. 10-12.

Article summarizes rules of procedure for the CJRA in Idaho's federal district court system. Parties with pending cases are offered services of arbitrators and mediators to give nonbinding opinions. Author advocates program as efficient and nonprejudicial to parties' rights to litigate.

MED: OTHER JUDICIAL SETTLEMENT DEVICES/ NON-BINDING RECOMMENDATION PROC- NEUTRAL FACT-FINDING/ NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL.

Kritek, Phyllis Beck. "Negotiating at an Uneven Table: Developing Moral Courage in Resolving Our Conflicts". San Francisco: Jossey-Bass Publishers; 1994.

Author discusses negotiating conflicts in situations where some participants are at a disadvantage that others do not acknowledge. Such a place is considered by the author to be an uneven table -- a place where the assurance of justice is uncertain or unlikely. Author presents a range of possible responses to this situation. Part One describes the uneven table; Part Two presents traditional approaches to the uneven table; and Part Three presents the author's ten constructive ways of being at an uneven table.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/
NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY:
GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES-
GENERAL.

L'Estrange, John H., Jr.; Nevitt, William R., Jr.. "The participation of unlicensed advocates in California in the resolution of disputes between investors and stockbrokers". California Western Law Review; Fall, 1994; 31(1): pp. 73-101.

Article discusses Bentley v. Investors Arbitration Services, Inc. and its implications for consumers who are harmed by arbitration advocates. Article compares the activities of arbitration advocates with those of licensed lawyers to examine whether advocates provide a significant benefit over lawyers. Author proposes restrictions on the activities of arbitration advocates that would improve their services.

ARB: CLIENT REP/ SUBJ MATTER: SECURITIES/ QUALITY
CONTROL.

Lamari, Maria R.. "The role of alternative dispute resolution in government construction contract disputes". Hofstra Law Review; Fall, 1994; 23(1): pp. 205-24.

Article examines the excessive time and complexity involved in the litigation of contracts in which the government is a party. Author explores alternatives to traditional litigation, as well as the advantages and disadvantages of these alternative dispute resolution techniques. Author believes that mediation is the most suitable alternative for the resolution of construction contract disputes.

MED: PUBLIC POLICY DIALOGUE/ SUBJ MATTER: GOV'T

CONTRACTS/ SUBJ MATTER: CONSTRUCTION.

Laurence, Craig. "Some Trends and Developments in the Laws and Practice of International Commercial Arbitration". Texas International Law Journal; Winter, 1995; 30(1): pp. 1-58.

Article discusses the evolution of arbitration in international commercial disputes. Author suggests that the best starting place for examining how an international arbitration should be conducted is the rules which the parties have agreed to apply. Article concludes that despite all the developments in arbitration laws and practice, most international arbitrations will proceed as a self-contained process.

ARB: DRAFTING ARB AGREEMENT.

Lavelle, Marianne. "Labor's charges test NAFTA rules in Mexico". The National Law Journal; September 19, 1994; 17(3): p. A16, col. 1.

Article details the grievances labor unions have with some of the results of the North American Free Trade Agreement (NAFTA). Specifically, the labor unions cite three cases that are pending before the Trilateral Commission established to resolve disputes over NAFTA. The defendants in those cases argue that the dispute resolution process established by NAFTA does not afford them the due process rights guaranteed by the U.S. Constitution.

INST NATURE: JUSTICE SYSTEM-OTHER/ SUBJ MATTER: LABOR- MANAGEMENT (UNIONS)/ ECONOMIC ADVANTAGES OF ADR.

Lavelle, Marianne. "Opt-out plaintiffs in oil suit won big; breakaway shareholders got \$22.50 per share in arbitration while the class settled for 47 cents". The National Law Journal; July 18, 1994; 16(46): p. A6, col. 2.

Plaintiffs who opted out of a class-action suit concerning an abortive Gulf Oil Corp. merger won a much larger settlement than plaintiffs who remained in the class.

SUBJ MATTER: CORPORATE/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- OTHER.

Lavelle, Marianne. "Superfund reform could shift funds from attorneys". The National Law Journal; February 14, 1994; 16(24): p. 19, col. 2.

Article discusses the Clinton Administration's plan to reform Superfund which includes cutting the legal cost of Superfund litigation. The proposal is to replace attorneys with non-

binding mediation by offering various incentives. Author notes that such a plan will be difficult to implement because of the history and complexity of Superfund legislation.

NON-BINDING RECOMMENDATION PROC- GENERAL/
NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/
SUBJ MATTER: ENVIRONMENT.

Lees, Judd H. "The National Labor Relations Board and the strict enforcement of the settlement bar rule". Labor Law Journal; March, 1994; 45(3): pp. 187-91.

Article draws attention to, and encourages use of, NLRB policy of imposing bars to subsequent prosecution for pre-settlement conduct. By analyzing a few cases on point, article illustrates the NLRB's broad application of the bar. Such application is available even when some pre-settlement conduct is unknown to the board and not expressly set forth in the settlement agreement.

INST NATURE: GOV'T ENTITIES/ SUBJ MATTER:
LABOR-GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION.

Leone, Armand, Jr. "Is ADR the Rx for malpractice?". Dispute Resolution Journal; September, 1994; 49(3): pp. 14-22.

Article examines health care alternative dispute resolution and enterprise liability, and their effects on health care reform. Author sets up the general principles behind malpractice arbitration and discusses the benefits of utilizing enterprise liability with respect to medical malpractice claims.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: MEDICAL
MALPRACTICE/ ECONOMIC ADVANTAGES OF ADR.

Levine, Marvin J. "The erosion of the employment-at-will doctrine: recent developments". Labor Law Journal; February, 1994; 45(2): pp. 79-89.

Article compares employee dismissal cases decided in the judicial system in Britain to employee dismissal cases decided by private arbitration. Author states that judicial intervention caused by employment-at-will lawsuits results in huge legal costs to employers. Author contends that private arbitration will apply a flexible "problem-solving approach" instead of applying a rigid legal-related standard that may or may not apply to the wide variety of suits being brought.

ARB: PRIVATE JUDGING.

Lind, E. Allen; Huo, Yuen J.; Tyler, Tom R.. "...And justice for all: ethnicity, gender, and preferences for dispute resolution procedures". Law and Human Behavior; June, 1994; 18(3): pp. 269-90.

Article discusses results of experiment evaluating ethnic- and gender-based correlations among preferences for dispute resolution methods. Authors note that relatively small differences exist among ethnic- and gender-based lines, and that methods of "negotiation" and "persuasion" were overwhelmingly preferred by all four ethnic groups and both genders.

SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: INT'L/
COMPARISONS: CROSS-CULTURAL.

Liu, Paul C.B.. "U.S. industry's influence on intellectual property negotiations and special 301 actions". UCLA Pacific Basin Law Journal; Fall, 1994; 13(1): pp. 87-117.

Article suggests that international bilateral and multilateral trade negotiations and investigations under the so-called special 301 provisions trade law have become more serious and difficult for the international community to deal with in recent years. Article examines the reasons why the U.S. engages in international intellectual property dispute negotiations and settlements. Article concludes that industry involvement has become an integral and indispensable part of America's international negotiations on trade related matters.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/
SUBJ MATTER: SCIENCE & TECHNOLOGY/ SUBJ MATTER: INT'L.

Liu, Shujian. "Recent Beijing maritime arbitration awards". Lloyds Maritime and Commercial Law Quarterly; May, 1994; (2): pp. 263-79.

Collection of Beijing maritime arbitration awards. Subjects include cargo damage (subrogation, peril of the seas, limitations period), lawyers' costs, third-party responsibility, third-party participation, and jurisdiction.

SUBJ MATTER: INT'L/ SUBJ MATTER: MARITIME.

Lobel, Ira B.. "Realities of interest based (win-win) bargaining". Labor Law Journal; December, 1994; 45(12): pp. 771-78.

Article points out the downfalls of interest based (win-win) bargaining. Author emphasizes the fact that in today's economy a new style of bargaining or new words will not change the realities that power will still be a factor in

negotiating, solutions may be unsatisfactory, and the pie may get smaller.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/
SUBJ MATTER: LABOR-GENERAL.

Loder, Reed Elizabeth. "Moral truthseeking and the virtuous negotiator". Georgetown Journal of Legal Ethics; Fall, 1994; 8(1): pp. 45-102.

Article advances proposition that deception by lies, conduct, or omission is not inherent in negotiation and is not a necessary part of the adversarial system. Author proposes instead a "moral" model where the attorney seeks to tell the truth in all phases of negotiation and discusses that position or tact with client at outset of negotiation. Author believes such behavior en masse can improve negotiation climate.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/
NEG: TACTICS, STRATEGIES AND TECHNIQUES- FALSE
DEMANDS/ NEG: TACTICS, STRATEGIES AND TECHNIQUES-
COOP TECHNIQUES/ ETHICS: MISREPRESENTATION, FAILURE
TO DISCLOSE.

Lomax, Lisa A.. "Alternative dispute resolution in bankruptcy: Rule 9019 and bankruptcy mediation programs". American Bankruptcy Law Journal; Winter, 1994; 68(1): pp. 55-90.

Article examines rule 9019 of the Federal Rules of Bankruptcy Procedure, which allows court-annexed arbitration of bankruptcy disputes. Article discusses how mediation can be beneficial in bankruptcy disputes and proposes an amendment to rule 9019 that would facilitate mediation for these disputes.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ MED:
RELATED PROCESSES-GENERAL/ COURT REFORM/ SELECTION
OF APPROPRIATE PROCESS.

Lowe, Vaughan. "Notes and Comments on Cases in International Law, Commercial Law and Arbitration". (book review). Lloyds Maritime and Commercial Law Quarterly; May, 1994; (2); ISSN: p. 288.

Author reviews the above book. A 50 year compilation of case notes and comments on landmark decisions in international law, commercial law and arbitration. Collection, based on decisions in English courts, is written by Dr. Francis Mann, a prolific English scholar on international and commercial law.

TYPE OF SOURCE: BOOK REVIEW/ SUBJ MATTER:
COMMERCIAL/ SUBJ MATTER: INT'L.

Lowenfeld, Andreas F.. "Remedies along with rights: institutional reform in the new GATT". American Journal of International Law; July, 1994; 88(3): pp. 477-88.

Article explains the impact the Uruguay Round of Trade Negotiations had upon GATT. Article gives a close analysis of adjudicatory model of dispute settlement utilized under World Trade Organization's "Understanding on Rules and Procedures Governing the Settlement of Disputes." Article gives attention to role of the adjudicatory panel, compensation of panels, appellate review and use of accord or satisfaction.

ARB: DRAFTING ARB AGREEMENT/ ARB: JUDICIAL REVIEW/
ARB: PRIVATE JUDGING/ INST NATURE: GOV'T ENTITIES/ SUBJ
MATTER: INT'L.

Luetkehans, Melody L.. "Misdemeanor criminal mediation". Nevada Lawyer; August, 1994; 2(8): pp. 24-27.

Advocates use of ADR in minor criminal cases in order to promote rehabilitation of offender, restitution of victims, and protection of society. Identifies types of criminal cases in which ADR is useful, and points out potential problems with use of ADR in other cases.

MED: PUBLIC POLICY DIALOGUE/ SUBJ MATTER:
CRIMINAL/ INST NATURE: JUSTICE SYSTEM- CRIM COURTS.

Mackey, Peter. "Conciliation in family law". Law Institute Journal; August, 1994; 68(8): pp. 696-98.

Author argues that conciliation is an integral part of a family law practice. Admits that conciliation will not resolve those cases destined for trial, but will allow earlier and less-expensive resolution of the majority of family law disputes.

INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ
MATTER: FAMILY (DOMESTIC REL)/ ECONOMIC ADVANTAGES
OF ADR.

MacLachlan, Claudia. "Mediation may settle the Haft family feud". The National Law Journal; February 14, 1994; 16(24): p. 19, col. 2.

Article details the divorce between Trak Auto Corp. and Crown Books founder Herbert Haft and his wife, Gloria. After much legal wrestling in three courts and two jurisdictions, the case is going to mediation in the hopes of

avoiding further legal costs. All parties have agreed to mediation which indicates a good possibility of settlement.

MED: RELATED PROCESSES-GENERAL/ MED: OBTAINING AGREEMENT TO USE/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS.

Mahan, Barbara. "But what about the kids?". California Lawyer; May, 1994; 14(5): p. 52.

Article discusses the life, philosophy, and influence of prominent psychologist Barbara Wallerstein. Reviews the impact of Ms. Wallerstein's writings and personal counseling on decisions by California family courts. Outlines the procedures and philosophies of family counseling espoused by Ms. Wallerstein, and also reviews the praise and criticism she has received from her peers.

MED: RELATED PROCESSES-GENERAL/ MED: COUNSELING/ MED: PSYCH FACTORS/ INST NATURE: JUSTICE SYSTEM-FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL).

Mahood, James E.. "A negotiated settlement". Family Advocate; Fall, 1994; 17(2): pp. 46-50.

Article examines the benefits of using negotiation and arbitration for the resolution of family disputes. Author advocates negotiated settlements because they afford lawyers and clients the most control over all aspects of the resolutions.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ / SELECTION OF APPROPRIATE PROCESS.

Maister, David H.. "Negotiating quality with your clients". American Lawyer; April, 1994; 16(3): pp. 36-38.

Author reviews the important role communication and negotiation plays in a professional's (mainly attorneys) relationship with their clients. Article stresses that through communication and negotiation both the professional and client should adopt the same definition of success in the relationship. Article admonishes professionals from infusing into the relationship their own or a general understanding of success.

MED: REP OF A CLIENT DURING PROCESS/ ETHICS: GENERAL/ QUALITY CONTROL/ ROLE OF LAWYERS.

Malby, Lewis. "Paradise lost - how the Gilmer court lost the opportunity for alternative dispute resolution to improve civil rights". New York Law School Journal of Human Rights; Fall, 1994; 12(1): pp. 1-29.

Article examines the 1991 Supreme Court case Gilmer v. Interstate/Johnson Lane Corp. and asserts that although the average employee may have been given an advantage in allowing the arbitration of employment disputes, due process for the employee may be sacrificed by the Gilmer decision. Concerns of the Gilmer decision include the lack of neutrality of the arbitrator allowed, the inadequacy of the rules of discovery used, and the lack of public scrutiny given to the arbitrator decision. Article suggests the minimum due process required by statute and the procedures that are mandated by them.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: CIVIL RIGHTS/ SUBJ MATTER: LABOR-GENERAL/ SUBPOENA AND DISCOVERY.

Maralyn, Edid. "Farm Labor Organizing: Trends & Prospects". Ithaca, New York: ILR Press; 1994.

Book discusses the use of negotiation and bargaining with respect to farmworkers' labor unions. Also discusses the organization of the farm labor union, and the issues involved in organizing such a union, including collective bargaining. Finally, the current status of farm labor organizations is related, focusing on California and regions such as Florida, Ohio, New Jersey, Arizona, and New York. Arguments are made regarding the need and importance of farm labor organizations.

NEG: USE OF BARGAINING TEAMS/ SUBJ MATTER: FARM/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL.

Marquis, Albert G.. "Arbitrators must check for conflicts". Nevada Lawyer; August, 1994; 2(8): pp. 18-19.

Article points out the necessity for arbitrators to check for conflicts of interest with the parties involved. Outlines a case history wherein the arbitrator appointed by the AAA discovered a conflict due to representation of one of the parties by another member of his former firm. Advocates use of full and comprehensive disclosure of interests.

ARB: SELECTION OF ARBITRATOR/ ARB: CLIENT REP/ ARB: SERVING AS ARBITRATOR.

Martin, Karen E. "Courts Let Go of the Reins: Runaway Escrow Agent Binds Principals to Arbitration Agreement". Journal of Dispute Resolution; Fall, 1994; 1994(2): pp. 259-72.

Article analyzes how traditional contract analysis must be altered when an escrow agent acting on behalf of one party to a contract binds that party to an agreement to arbitrate. Author suggests that an escrow agent does not possess the ability to bind its principal to an agreement to arbitrate a dispute with another party.

ARB: SERVING AS ARBITRATOR/ ARB: BINDING ARB-GENERAL.

Martin, Nina. "Mass tort negotiation may herald the future". The Los Angeles Daily Journal; April 20, 1994; 107(75): p.1, col. 5.

Article examines how one company was able to survive the flood of litigation involving breast implants without having to declare bankruptcy. The plaintiffs negotiated because they believed they could get more money by negotiating a settlement than if the company went bankrupt.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/
NEG: EVAL OF OPTIONS AND OFFERS/ SUBJ MATTER: OTHER TORTS.

Martindale-Hubbell Staff, Editor. "Martindale-Hubbell Dispute Resolution Directory 1995". New Providence, New Jersey: Martindale-Hubbell; 1994.

Reference guide lists practitioners, organizations, and areas of practice in the dispute resolution field. Guide is helpful in assisting parties considering litigation alternatives.

Mason, Paul E.. "International commercial arbitration: the corporate counsel's view". Dispute Resolution Journal; June, 1994; 49(2): pp. 22-25.

Article discusses advantages of ADR in international corporate disputes. Author comments on "arbitrability" of cases, and what makes a good arbitration clause. Author recommends consideration of the factors before a routine insertion of an arbitration clause in a contract.

ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: SELECTION OF ARBITRATOR/ ARB: DRAFTING ARB AGREEMENT/ INST NATURE: PRIVATE, PROFIT-MAKING.

Mayes, Gregory T.. "Labor law - the Third Circuit defines the public policy of exception to labor arbitration awards". Temple Law Review; Spring, 1994; 67(1): pp. 493-508.

Author uses the 3rd Circuit decision in Exxon to show how a court correctly applies the public policy exception to accepting an arbitration decision. Article argues that the 3rd Circuit has preserved judicial respect for the labor arbitration process and protected the public and the environment by upholding the strong public policy against drug use.

SUBJ MATTER: LABOR-GENERAL/ ARB: JUDICIAL REVIEW.

McCunn-Miller, Patricia A.. "Injecting deleterious substances into pipelines: a case study of a contamination incident". Alberta Law Review; May 15, 1994; 32(2): pp. 241-58.

Article describes the use of alternative dispute resolution in the Rangeland oil pipeline contamination incident. Author emphasizes the use of alternative dispute resolution in the settlement of grievances to expedite the closure in such cases. Article demonstrates effectiveness of alternative dispute resolution in similar situations.

MED: ENCOURAGING COMM AND NEG/ SUBJ MATTER: ENVIRONMENT/ SETTLEMENT: PRESSURES TO SETTLE.

McGill, John G.. "Bonds and arbitration". Construction Lawyer; April, 1994; 14(2): pp. 18-26.

Article examines the problem of reconciling contractual arbitration procedures associated with construction bonds that have their own deadlines and may result in litigation. Author discusses the Miller Act and waiver of either arbitration or litigation because of participation in the other procedure. Author also provides practice pointers.

MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB-GENERAL/ SUBJ MATTER: CONSTRUCTION.

McKenna, Parlen L.. "Total quality management and alternative dispute resolution". Judges Journal; Spring, 1994; 33(2): pp. 19-21.

Author suggests using Total Quality Management (TQM) and Alternative Dispute Resolution (ADR) techniques to cope with the rapidly increasing amount of social security litigation. Article states that TQM (a management philosophy) will prevent disputes from arising and ADR techniques will allow judges to formulate creative, acceptable resolutions to

disputes. Author points out that law clerks could then be able to handle administrative tasks, thereby allowing judges to hear more cases and lessening burdens on court dockets.

INST NATURE: JUSTICE SYSTEM- GENERAL.

McLaughlin, Joseph T.; Crupi, Karen M. "Developments in ADR: summary jury trials". New York Law Journal; February 1, 1994; 211(21): p1, col. 1.

Article addresses how summary jury trials affect legal practitioners. Author explains how some federal judges are compelling summary jury trials in order to clarify issues for trial and persuade parties to reach a settlement after hearing the jury's non-binding decision.

NON-BINDING RECOMMENDATION PROC- SUMMARY JURY TRIAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ RELATION TO ONGOING LITIGATION.

McMahon, John P. "The role of party-appointed arbitrators - the Sunkist case". Dispute Resolution Journal; September, 1994; 49(3): pp. 66-69.

Article examines the role of party-appointed arbitrators in light of a recent Eleventh Circuit opinion in Sunkist Soft Drinks, Inc. v. Sunkist Growers, Inc. The Sunkist case provides that communication between an appointing party and an arbitrator may be permitted if all contacts take place before arbitration proceedings and full disclosure is made to an opponent. Article points out that certain procedural rules might permit contact with an arbitrator during proceedings, but every effort should be made by the arbitrator to base his decision solely on the record. Otherwise the partiality of the arbitrator may be challenged.

ARB: SELECTION OF ARBITRATOR/ ARB: SERVING AS ARBITRATOR/ ETHICS: GENERAL.

McNeill, John H. "International agreements: recent U.S.-U.K. practice concerning the memorandum of understanding". American Journal of International Law; October, 1994; 88(4): pp. 821-26.

Article traces recent history of Memorandum of Understanding (MOU) between U.S. and U.K. U.S. has recently insisted that MOU be legally binding. With recent signing of "Chapeau Agreements," U.S. and U.K. have detailed major aspects of joint cooperation between the countries.

INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L.

"Mediation and the ground for divorce - answers to the questions in the full green paper". ('Looking to the Future: Mediation and the Ground for Divorce'). Family Law; May, 1994; 24: pp. 278-84.

Article presents the responses of circuit judges in England to the same questions answered in Lord Chancellor's consultation paper on divorce reform. Circuit judges agree with Lord Chancellor in Looking to the Future, Cm 2424, December 1993, popularly known as the Green Paper, that fault from the grounds of divorce should be removed and mediation should not be compulsory but highly recommended.

MED: PUBLIC POLICY DIALOGUE/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ REQUIREMENTS: MANDATE TO USE.

Melling, Tom. "Dispute resolution within legislative institutions". Stanford Law Review; July, 1994; 46(6): pp. 1677-1715.

Article examines role of dispute resolution within legislative institutions by illustrating discussion with case studies, focusing on the Central Utah Project Completion Act (a legislative settlement of water management in Utah). In particular, author examines three procedural techniques that have helped parties to overcome barriers to cooperative decisionmaking and to resolve public conflicts within legislative institutions. Author then examines effect that use of dispute resolution techniques in crafting legislation should have on statutory interpretation.

INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T/ SUBJ MATTER: PUBLIC POLICY/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ LEGISLATION.

Merrill, Marsha Lynn. "No more sacrifices on the altar of educational excellence: ADR and at-risk students". Ohio State Journal on Dispute Resolution; Spring, 1994; 9(2): pp. 275-306.

Article explores the benefits of incorporating problem-solving and conflict resolution techniques into school programs for students, in grades four through twelve, who are at-risk of failing or dropping out of school. Author advocates schools' implementation of school-based mediation programs to help the at-risk student population become more productive in school and their every day lives.

MED: RELATED PURPOSES- THEORY AND STRATEGIES/ SUBJ MATTER: EDUCATION/ SELECTION OF APPROPRIATE PROCESS.

Metropoulos, Demetrios G.. "Constitutional dimensions of the North American Free Trade Agreement". Cornell International Law Journal; Winter, 1994; 27(1): pp. 141-72.

Article examines the constitutionality of NAFTA's binational dispute resolution system under Article III of the U.S.

Constitution. Article concludes that NAFTA's binational panels violate Article III and discusses the implications of this violation.

COMPARISONS: CROSS-CULTURAL.

Metzloff, Thomas B.. "How to improve the summary jury trial". Trial; June, 1994; 30(6): pp. 22-27.

Summary Jury Trial (SJT) quickly gained prominence with growing ADR movement. SJT is one of the few ADR methods designed for complex cases. Article addresses how SJT promotes settlements, the actual effect of SJT, and its criticisms which include questioning the utility and ethical propriety of SJT.

NON-BINDING RECOMMENDATION PROC- SUMMARY JURY TRIAL/ ETHICS: GENERAL/ JUDICIAL PARTICIPATION/ INST NATURE: JUSTICE SYSTEM- GENERAL.

Miller, Bradley S.. "How to draft real estate arbitration clauses (with forms)". The Practical Real Estate Lawyer; January, 1994; 10(1): pp. 27-52.

Article gives insight and tips on drafting arbitration clauses. In addition, author offers detailed practice tips from choosing venue to selecting an arbitrator. Author addresses a wide variety of subject areas including: baseball arbitration, when to choose litigation, and loan agreement arbitration clauses. The appendix has forms for the practitioner.

ARB: BINDING ARB- GENERAL/ ARB: CLIENT REP/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: GENERAL.

Miller, Francis. "A reason why arbitrators should get Cross (Cross On Evidence). New Law Journal; October 7, 1994; 144(6666): pp. 1381-82.

Article examines the vast diversity in opinion concerning the appropriate place for the rules of evidence in English arbitration law. Article discusses various experts' opinions ranging from the argument that arbitrators should have the laws of evidence available to them to the belief that the

technical rules of evidence have never applied in arbitrations under English law.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ COMPARISONS: CROSS-CULTURAL.

Miller, Jonathon I.. "Prospects for satisfactory dispute resolution of private commercial disputes under the North America Free Trade Agreement". Pepperdine Law Review; May, 1994; 21(4): pp. 1313-89.

Article provides a comprehensive discussion of NAFTA, including an examination of the use of international commercial arbitration as a means of obtaining certainty in international business transactions. Article also provides guidance and recommendations for the private business person seeking to engage in business with Mexico.

ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL.

Miller, Paul; Mulvey, Charles. "Does compulsory arbitration neutralize union power?". Industrial Relations; October, 1994; 33(4): pp. 492-504.

Article examines Australian wage determination. Authors use economic model and analyze labor data. Authors find that union power is not neutralized by compulsory arbitration.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: INT'L/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS).

Miller, Peter G.; Bregman, Douglas M.. "Successful Real Estate Negotiation". New York: Harp C; 1994.

Book refers to itself as the "common sense guide to successful real estate negotiation." Author covers negotiation in a variety of areas, including real estate business, real property, real estate agents, house buying and house selling.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL.

Moberly, Robert B.. "Ethical standards for court-appointed mediators and Florida's mandatory mediation experiment". Florida State University Law Review; Winter, 1994; 21(3): pp. 701-27.

Article surveys essential content and reach of recently adopted Florida Rules for Certified and Court-Appointed Mediators. Florida has rich history of use of mediation in

both simple and complex cases. State's legislature mandated development of new rules to ensure ethical and professional behavior by mediators as the discipline grows even larger. Due to diversity and depth of Florida's mediation program and now promulgation of ethical rules, author suggests the work there can serve as a model for other jurisdictions.

MED: RELATED PROCESSES-GENERAL/ MED: PUBLIC POLICY DIALOGUE/ INST NATURE: JUSTICE SYSTEM-OTHER/ ETHICS: GENERAL.

Monsma, Robbie; Scott, Jim. "In settling your cases, think about 'durable agreements' ". The Los Angeles Daily Journal; January 21, 1994; 107(14): p. 7, col. 1.

Article claims the most durable settlements are created when each party is satisfied with three elements of the agreement: substantive, procedural, and psychological. Author advocates mediation as a powerful tool, because of its unique capability to address each necessary element resulting in client satisfaction and desirable agreements.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ SUBJ MATTER: GENERAL.

Moody-O'Grady, Kristin. "Dispute settlement provisions in the NAFTA and the CAFTA: progress or protectionism?". (U.S.-Canada Free Trade Agreement). The Fletcher Forum of World Affairs; Winter-Spring, 1994; 18(1): pp. 121-34.

Article examines the dispute settlement provisions in the North American Free Trade Agreement (NAFTA) and the U.S.- Canada Free Trade Agreement (CAFTA). Author discusses the provisions for a settlement panel review for any signatory's anti-dumping or countervailing duty orders, and for the extraordinary challenge of the dispute resolution process when there has been an abuse of discretion. Article suggests how the provisions can help, not hinder, free trade in North America.

SUBJ MATTER: GOV'T/ INST NATURE: GOV'T ENTITIES.

Moore, D. Bruce. "Industrial action and secondary boycotts: the Industrial Relations Reform Act 1993". (Australia). Australian Business Law Review; October, 1994; 22(5): pp. 370-76.

Article examines use of Australian civil remedies in

industrial actions, particularly secondary boycotts. Article also examines impact of the Industrial Relations Reform Act 1993, noting that before the Act, groups could engage in secondary boycotts without fear of civil punishment. Author lists changes in practice because of Act and concludes that the ban on secondary boycotts imposed by Act is likely to be a good remedy to limit the scope of industrial actions.

INST NATURE: GENERAL/ INST NATURE: GOV'T ENTITIES/
SUBJ MATTER: INT'L/ SUBJ MATTER: LABOR-MANAGEMENT
(UNIONS)/ LEGISLATION.

Morley, Brenda. "What do our clients want?". Family Law; May, 1994; 24: pp. 276-78.

Author argues that compulsory mediation should not be included in UK divorce law reform. Article claims present system works, and simpler reforms can be implemented to improve the system rather than mandatory mediation. Author proposes statutory, no-fault, cost-sharing system to be used when parties are in agreement to all financial and child custody issues.

MED: PUBLIC POLICY DIALOGUE/ MED: COUNSELING/ SUBJ
MATTER: FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: CASE
STUDY/ RESEARCH REPORT.

Moss, Debra Cassens. "Reformers tout ADR programs: in a cauldron of federal civil justice experiments, some rise to the top". ABA Journal; August, 1994; 80: pp. 28-29.

Among federal courts' experiments in ADR, as required by the Civil Justice Reform Act of 1990, some show promise in early results. Author reviews reports that extol Western District of Missouri's early assessment program and Northern District of California's early neutral evaluation.

NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL
EVAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ TYPE OF
SOURCE: CASE STUDY/ RESEARCH REPORT/ ECONOMIC
ADVANTAGES OF ADR.

Mulcahy, Linda; Lloyd-Bostock, Sally. "Managers as third-party dispute handlers in complaints about hospitals". Law & Policy; April, 1994; 16(2): pp. 185-208.

Article examines the role of senior managers in the handling of complaints about the staff, policies, and practices of Britain's National Health Service hospitals and community

services. Authors examine the nature of the manager's role and whether managers can be seen as third parties to the dispute who may conciliate, mediate, or arbitrate. Authors claim that managers are important legal actors who should play a more important role in dispute resolution.

3RD PARTY: CONFLICT OF INTEREST/ SUBJ MATTER: HOSPITALS/ MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB- GENERAL.

"Multiemployer plan must provide COBRA coverage upon employer's withdrawal". (AppleTree Markets, Inc. v. South Central United Food & Commercial Workers Union and Employers Health & Welfare Trust). Tax Management Compensation Planning Journal; July 1, 1994; 22(7): pp. 173-74.

Article gives succinct analysis of regulatory and statutory effects upon employer health benefit plans under multiemployer plans. Author suggests that trustees of multiemployer plans will be placed on notice that there is potential liability for covering COBRA beneficiaries of withdrawing employees and the allocation of such liability should be addressed during collective bargaining.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES.

Murphy, Sean D.. "Prospective liability regimes for the transboundary movement of hazardous wastes". American Journal of International Law; January, 1994; 88(1): pp. 24-75.

Through in-depth discussion and data on hazardous waste, article suggests that a liability regime for the transport of hazardous waste should strive to reinforce observance of standards and procedures of the United Nations Basel Convention on the Transboundary Movement of Hazardous Waste & Their Disposal. Article proposes six liability regimes including Intergovernment Negotiation, Negotiated Private Law Regime, and Intergovernment Arbitral Regime. Author then proposes elements for the success of any regime.

SUBJ MATTER: INT'L/ SUBJ MATTER: TOXIC TORTS.

Myers, James J.. "Survival kit for complex construction arbitration in the 1990s". Dispute Resolution Journal; September, 1994; 49(3): pp. 53-57.

Article notes that as arbitration disputes become increasingly more complex, arbitrators must take it upon themselves to ensure timely and efficient arbitration

procedures. Author urges arbitrators to provide structure and strict scheduling to the proceedings. Article points out that if arbitrators are sufficiently trained to do so, the efficiency and value of the arbitration process will be maximized.

ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/
ARB: SELECTION OF ARBITRATOR/ ARB: SERVING AS
ARBITRATOR.

Nagle, Patrick. "Yeshiva's impact on collective bargaining in public-sector higher education". Journal of College and University Law; Winter, 1994; 20(3): pp. 383-403.

Examines NLRB v. Yeshiva University and its impact on public sector collective bargaining. Discusses and analyzes Supreme Court's reasons for the ruling and how state legislatures and labor relations boards have reacted to the decision. The impact on education reform is also discussed.

SUBJ MATTER: EDUCATION/ SUBJ MATTER:
LABOR-GENERAL.

Newman, B.L.. "Mediation in International Relations: Multiple Approaches to Conflict Management". Harvard International Law Journal; Winter, 1994; 35(1): pp. 257-58.

Article reviews book "Mediation in International Relations: Multiple Approaches to Conflict Management," edited by Jacob Bercovitch & Jeffrey Z. Rubin. Author asserts that editors took essays with wide ranging topics written by well-respected authors and have tied the essays together effectively giving the book an almost narrative feel. Essays are arranged according to the type of mediator involved. The book is primarily focused on international security concerns, but should be helpful for those interested in international diplomacy to those interested in private sector disputes.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/
NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY:
GENERAL/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK
REVIEW.

Newman, Lawrence W.. "Provisional remedies in aid of arbitration". New York Law Journal; December 30, 1994; 212(124): p. 3.

Discusses the necessity of provisional remedies when difficulties arise before arbitration can be undertaken.

PROVISIONAL REMEDIES.

Newman, Lawrence W; Burrows, Michael. "'Fast-track' litigation". New York Law Journal; May 12, 1994; 211(91): p. 3.

Article notes that international commercial arbitration is not as speedy and efficient as it used to be, due to the increasing "judicialization" of complex cases. Article proposes "fast-track" arbitration as an effective, inexpensive, and speedy solution. Author notes that less discovery and strict time limits are essential to streamlining the process.

ARB: CLIENT REP/ ARB: MANDATORY, COURT-ANNEXED-GENERAL/ AGREEMENT ON PROCEDURE.

Newman, Lawrence W.; Burrows, Michael. "Arbitration and disputes involving multiple parties". New York Law Journal; March 29, 1994; 211(59): p 3, col. 1.

Article presents the arbitration options available to a party involved in multiple-party disputes. Author provides insight legal obligations present when arbitration clauses are signed in the agent/principal context and corporate context.

Article gives commentary on the factors a court considers when deciding whether to enforce an arbitration agreement or compel arbitration in multi-party disputes.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ SUBJ MATTER: CORPORATE.

Niblett, Bryan. "Arbitration Practice and Procedure: Interlocutory and Hearing Problems" (book review). Journal of Business Law; January, 1994; pp. 106-07.

Author reviews the book "Arbitration Practice and Procedure: Interlocutory and Hearing Problems". Author concludes that the practice of arbitration takes a step forward with this book and claims that practicing arbitrators will be pleased with the work because it is designed to give sound advice on practical problems which arise during a proceeding. Author describes the distinguishing feature of the book as its organization around 300 practical problems, each problem starting with a factual situation and ending with a recommended course of action.

ARB: BINDING ARB- GENERAL/ ARB: CLIENT REP/ TYPE OF SOURCE: BOOK REVIEW.

Nugent, Charles W.. "A comparison of the right to organize and bargain collectively in the United States and Mexico: NAFTA's side accords and prospects for reform". The Transnational Lawyer; Spring, 1994; 7(1): pp. 197-225.

Article compares labor relations in the United States and Mexico after NAFTA, including collective bargaining rights. Author argues that, whereas United States labor rights are diminishing, Mexican laborers' rights are expanding as Mexican unions become more aggressive in asserting collective bargaining rights. Author concludes that the inexpensive and docile nature of Mexican workers will diminish as Mexican workers continue to seek greater autonomy.

SUBJ MATTER: LABOR-MANAGEMENT (UNIONS).

O'Dea, Jonathan. "Mediation and local government". Environmental and Planning Law Journal; June, 1994; 11: pp. 211-21.

Article advocates utilization of environmental mediation by local governments. Author focuses on North Sydney Council as a case study.

INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: GOV'T/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT.

Oberer, Walter E.; Hanslone, Kurt L.; Heinsz, Timothy J.. "Cases and materials on labor law: collective bargaining in a free society". St. Paul: West Publishing; 1994.

Fourth Edition of a casebook on labor law. Latest edition has "pruned" labor law materials down to the most important elements to include recent developments outside of the traditional collective bargaining context. Specifically, the new edition deals with antidiscrimination and wrongful termination law which have burgeoned in the last twenty years. Book continues to stress the premise of the first edition, that labor law makes "possible a free society by permitting.... the collectivizing of individual weaknesses into individual strength."

INST NATURE: JUSTICE SYSTEM-OTHER/ SUBJ MATTER: LABOR- GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: EMPLOYMENT (NON- UNIONS)/ REQUIREMENTS: CONTRACTUAL CLAUSES/ ARB: MANDATORY, COURT-ANNEXED- GENERAL.

Oelstrom, Kristin L.. "A treaty for the future: the dispute settlement mechanisms of the NAFTA". Law and Policy in International Business; Winter, 1994; 25(2): pp. 783-812.

Article discusses ADR provisions of the recent North American Free Trade Agreement between the United States, Mexico, and Canada, and analyzes the impact these provisions have on the countries involved. Author praises NAFTA as a forward-looking document illustrated by its ADR mechanisms, which author contends strike "an effective balance" between "sovereign autonomy" and "a wholly integrated [commercial legal] system." Author suggests that all participants stand to gain from the treaty and its ADR mechanisms.

SUBJ MATTER: INT'L/ SUBJ MATTER: COMMERCIAL/
COMPARISONS: CROSS-CULTURAL.

Ogden, John H.. "Creative use of dispute resolution can save a business relationship; to settle disputes, parties should not overlook attorneys who may have conflicts of interest". The National Law Journal; October 17, 1994; 17(7): p. C22.

Author highlights the benefits of using an attorney with a conflict of interest to resolve corporate disputes through ADR procedures as an alternative to litigation. Article provides a case illustration to trace the steps needed to determine whether such a procedure is appropriate.

SUBJ MATTER: CORPORATE/ 3RD PARTY: CONFLICT OF INTEREST/ 3RD PARTY: SELECTION/ ECONOMIC ADVANTAGES OF ADR.

Otto, Sandrock. "Is international arbitration inept to solve disputes arising out of international loan agreements?". Journal of International Arbitration; September, 1994; 11(3): pp. 33-60.

Article describes how contracts involving international loan agreements traditionally favored forum-selection clauses instead of arbitration clauses for the settlement of disputes. According to the author, objections to arbitration clauses are unfounded, however, and arbitration clauses should be considered by decision-makers. Arbitration clauses should state a recognized arbitration body, authorize the arbitrator to fashion an appropriate remedy, and include procedural measures such as those providing for service of process.

SUBJ MATTER: INT'L/ ARB: DRAFTING ARB AGREEMENT.

Page, Rosemary S.. "Enforceability of oral-contract award". New York Law Journal; Jan. 6, 1994; 211(4): p. 3, col. 1.

Article examines several recent cases heard in New York state courts involving arbitration law. Topics include collective bargaining agreements and choice of law provisions.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: LABOR-GENERAL.

Pankonin, Gerald W.. "Negotiations and the unauthorized practice of law". Colorado Lawyer; Feb., 1994; 23(2): pp. 361-63.

Article examines activities that may constitute the unauthorized practice of law. Negotiations concerning matters covered by a foreign jurisdiction may be prohibited for attorneys who are not licensed to practice in that jurisdiction.

SUBJ MATTER: FAMILY (DOMESTIC REL)/ ETHICS: GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- OTHER/ SUBJ MATTER: OTHER PROF MALPRACTICE.

Paulsson, Jan. "Arbitration of international sports disputes". The Entertainment and Sports Lawyer; Winter, 1994; 11(n4): pp. 12-17.

Article discusses the frequent use of arbitration as a means of resolving international sports contract disputes. Author argues that the independent Court of Arbitration for Sports is a better forum for resolution of international sports contract disputes than either individual sport federations or regular courts. An independent body would avoid domination of athletes by individual federations and also avoid problems arising when international disputes are tried in domestic courts.

SUBJ MATTER: SPORTS & ENTERTAINMENT.

Payget, Rhonda. "The purpose of an intake process in mediation". Australian Dispute Resolution Journal; August, 1994; 5(3): pp. 190-99.

Article defines and reviews the intake process of mediation, evaluating the process's role in preparing the parties for mediation and its role in determining whether or not mediation is best suited for the parties and their dispute. Article also describes the requisite skills needed by an intake worker.

MED: OPENING AND SETTING GUIDELINES/ MED: RELATED PROCESSES-GENERAL/ QUALITY CONTROL.

Pearman, Greg W. "Public employee bargaining rights: an avenue for success for the majority or a trap for the minority". Journal of Dispute Resolution; Fall, 1994; 1994(2): pp. 301-10.

Article analyzes the case Wrinkle v. International Union of Operating Engineers, Local 2, AFL-CIO. This case presented the issue of whether a group of employees, constituting a majority of an existing bargaining unit, have the right to appeal a state board of mediation determination which prevented them from forming a separate bargaining unit.

SUBJ MATTER: LABOR-GENERAL/ MED: RELATED PROCESSES- GENERAL.

Pelesh, Mark L. "Regulations under the Higher Education Amendments of 1992: a case study in negotiated rulemaking". Law and Contemporary Problems; Autumn, 1994; 57(4): pp. 151-170.

Article reviews the negotiated rulemaking process used by the Department of Education and its effect on regulations affecting accreditation. Author explains the concept of negotiated rulemaking and assesses the success or failure of the Department's effort to use negotiated rulemaking. Author concludes that the notice and comment phase of the rulemaking on the regulations affecting accreditation confirmed the failure of the negotiated rulemaking.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ SUBJ MATTER: EDUCATION/ SUBJ MATTER: REGULATORY.

Penna, Carolyn M. "Dispute resolution laws of 1993". New York Law Journal; March 14, 1994; 211(41): p.3.

Article gives an overview of 1993 legislative activity concerning ADR. Article discusses NAFTA, federal laws, and new ADR legislative developments in California, Colorado, Connecticut, Florida, Georgia, New York and New Jersey.

INST NATURE: GENERAL/ SUBJ MATTER: GOV'T/ SUBJ MATTER: INT'L/ COURT REFORM.

Penzel, Arthur. "ADR prgorams assist courts with caseload". New York Law Journal; May 2, 1994; 211(83): p. S9.

Article notes that in order for ADR to have a significant effect on the court systems' caseload, we must take steps to encourage its use. Article proposes a system where both parties are offered a chance to arbitrate. If one party accepts, and the other refuses, and if the party that agreed

to arbitrate the dispute wins at the resulting trial, that party would be awarded attorneys fees in the judgement.

ARB: MANDATORY, COURT-ANNEXED- FINANCIAL
DISINCENTIVES/ REQUIREMENTS: MANDATE TO USE.

Peterson, James. "An effective alternative to litigation: fee arbitration". The Wisconsin Lawyer; August, 1994; 67(8): pp. 16-21.

Outlines reasons why fee arbitration can be a useful and attractive alternative to litigation of attorney's fees for both the attorney and the client. Reviews the limited literature regarding outcomes in fee arbitration - suggests mixed results thus far.

SUBJ MATTER: OTHER PROF MALPRACTICE/ ECONOMIC
ADVANTAGES OF ADR/ ARB: MANDATORY, COURT-ANNEXED-
GENERAL/ ARB: MANDATORY, COURT-ANNEXED- FINANCIAL
DISINCENTIVES.

Peterson, Richard B.; McCabe, Douglas M.. "The nonunion grievance system in high performing firms". Labor Law Journal; August, 1994; 45(8): pp. 529-34.

Article summarizes the results of a survey sent to 49 medium to large-size firms concerning the use of nonunion grievance procedures for resolving disputes. Article briefly describes the process and highlights the results of the survey.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER:
EMPLOYMENT (NON- UNIONS)/ TYPE OF SOURCE: CASE
STUDY/RESEARCH REPORT/ FAIRNESS.

Phillips, Barbara Ashley. "Finding Common Ground: A Field Guide to Mediation". Austin, Texas: Hells Canyon Publishing; 1994.

After describing inadequacies of litigation and coining phrase "lit-think," or closing one's mind to alternatives to litigation, author explains traditional model of mediation process (the agreement model) and its benefits to parties. Written in layman's terms, book provides a guide to mediation steps including selecting a mediator and an attorney to help in mediation, setting up a mediation session, and participating effectively.

MED: RELATED PURPOSES- THEORY AND STRATEGIES/
MED: ENCOURAGING COMM AND NEG/ MED: RELATED
PROCESSES-GENERAL.

Phillips, John H.. "Advocacy in mediation". Australian Law Journal;

May, 1994; 68(5): pp. 384-85.

Article examines the issue of whether or not there is a place for advocacy in mediation proceedings. Author notes that attorneys may help in preparation, in making the client more comfortable and relaxed, and in stating the client's case during the proceedings. Also, the attorney may also help the client to effectively evaluate the mediator's proposal.

MED: REP OF A CLIENT DURING PROCESS/ MED: RELATED PROCESSES-GENERAL/ MED: OPENING AND SETTING GUIDELINES.

Pierce, Lemoine D.. "Mediation prospers in China". Dispute Resolution Journal; June, 1994; 49(2): pp. 19-21.

Article discusses use of mediation in neighborhoods, workplaces, and all levels of judiciary in China. Disputes are resolved through mediation committees. Mediation is the preferred technique over trying cases by People's courts. China has 10 million mediators and only 15,000 lawyers.

COMPARISONS: CROSS-CULTURAL/ ORGANIZATION POLICIES AND RULES/ RELATION TO ONGOING LITIGATION/ JUDICIAL PARTICIPATION.

Pike, David F.. "Court declines to study power of arbitrators". The Los Angeles Daily Journal; June 7, 1994; 107(108): p. 1.

Author discusses how the U.S. Supreme Court, on June 6, 1994, declined to review the question of whether arbitrators are empowered to award punitive damages when the parties agreement does not specifically provide for such an award.

SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ ARB: MANDATORY, COURT-ANNEXED- GENERAL.

Pines, Deborah. "Broad interpretation for securities arbitration rules". New York Law Journal; September 15, 1994; 212(53): p. 1, col. 3.

Article discusses how the United States Court of Appeals for the Second Circuit held that corporate parties are subject to the National Association of Securities Dealers, Inc. (NASD) arbitration rules. The NASD rules were previously applied to disputes between brokers and individuals, but not disputes between securities firms.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ MATTER: SECURITIES.

Pittman, Jennefer. "Santa Clara court honored for family court

program". The Los Angeles Daily Journal; July 29, 1994; 107(145): p.3.

Author examines the Santa Clara County family court program that eases the pain of divorce and custody disputes by keeping them out of court. The Family Court Services offers a program that utilizes mediation, low-cost counseling, early meetings with judges and volunteer advocates. The program won the 1994 Meritorious Service Award for 'Outstanding Alternative Dispute Resolution Programs.'

MED: COUNSELING/ MED: PSYCH FACTORS/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ SUBJ MATTER: FAMILY (DOMESTIC REL).

Pizzurro, Joseph D.; Harwood, Miriam K.. "Seeking satisfaction of arbitral awards issued overseas: foreign states present special problems". The National Law Journal; May 26, 1994; 211(98): p. S2.

Article discusses the enforcement of foreign arbitral awards in the United States against foreign states. Article discusses the relevant federal statutes that apply, and walks through the specific provisions. Authors also incorporate an analysis of the relevant case law interpreting the statutes.

SUBJ MATTER: INT'L/ ARB: MANDATORY, COURT-ANNEXED- GENERAL/ LEGISLATION.

Pliskin, Richard. "Malpractice lawyer challenges fee-arbitration rule". New Jersey Law Journal; March 14, 1994; 136(11): p.3.

Article discusses separation between attorney fee disputes subject to arbitration and substantive malpractice claims heard in court. Author focuses on one attorney's attempt to consolidate a fee grievance with a malpractice suit.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: JUSTICE SYSTEM- OTHER CIVIL COURTS/ SUBJ MATTER: OTHER PROF MALPRACTICE.

Podgers, James. "Changes sought in civil justice system; path to restructuring an "antiquated system" is multipronged". ABA Journal; February, 1994; 80: pp. 111-12.

Article discusses the highlights of the ABA's sponsored Summit on Civil Justice Improvements held in January 1994. Article cites the collapse of the discovery process, the growing incivility among lawyers, and the need for greater use of ADR in the judicial process as topics of the conference.

INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER:

PUBLIC POLICY/ CONFERENCE PROCEEDINGS/ JUDICIAL PARTICIPATION.

Podgers, James. "Chasing the ideal: as more Americans find themselves priced out of the system, the struggle goes on to fulfill the promise of equal justice for all". ABA Journal; August, 1994; 80: pp. 56-61.

Suggests that economic problems are the main reason that the legal needs of many Americans remain unmet. Discusses results of the Comprehensive Legal Needs Study by the ABA. Discusses how ADR may be both a boon and a bane to the needs of impoverished Americans; ADR itself is becoming expensive, and the rich may be setting up a "private" justice system.

INST NATURE: GENERAL/ INST NATURE: SECULAR, PRIVATE, NON- PROFIT/ COURT REFORM/ ECONOMIC ADVANTAGES OF ADR.

Polvino, Anthony T.. "Arbitration as preventative medicine for Olympic ailments: the International Olympic Committee's Court of Arbitration for Sport and the future for the settlement of international sporting disputes". Emory International Law Review; Spring, 1994; 8(1): pp. 347-81.

Article describes the make-up, power, and potential effectiveness of the new Court of Arbitration for Sport. Based on the history and facts of the Butch Reynolds case, and other model cases, author contends that the CAS is an ideal forum to settle international sports disputes and thereby avoid costly, complex litigation. Yet, author also discusses some reservations about future use of arbitration in such cases.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: SPORTS & ENTERTAINMENT/ INST NATURE: JUSTICE SYSTEM-OTHER/ SUBJ MATTER: INT'L.

Pons, Ted E.. "Arbitration protects intellectual property". Dispute Resolution Journal; June, 1994; 49(2): p. 6.

Article discusses the World Intellectual Property Organization's creation of an arbitration center that would resolve intellectual property disputes between private parties. Author explains that the center will offer, among other things, specialized mediation and arbitration services, and that it will provide model arbitration clauses to be included in agreements or used following a dispute.

SUBJ MATTER: INT'L/ ARB: BINDING ARB- GENERAL.

Ponte, Lucille M. "AIDS anxiety in the workplace: a review of labor arbitration awards". Southwestern University Law Review; Winter, 1994; 23(2): pp. 253-83.

Article overviews AIDS antidiscrimination laws and examines court decisions and arbitration cases that have dealt with AIDS discrimination in the workplace and accommodation of employees with and without the AIDS infection. Article suggests the steps that employers and arbitrators should take to accommodate AIDS in the workplace.

ARB: TRAINING AND QUALIFICATIONS OF ARBITRATOR/
SUBJ MATTER: LABOR-DISCRIMINATION/ SUBJ MATTER:
LABOR-GENERAL/ ARB: MANDATORY, COURT-ANNEXED-
GENERAL.

Pope, Michael A. "We need better judges". Defense Counsel Journal; January, 1994; 61(1): pp. 5-6.

President of the Defense Counsel Journal, Michael A. Pope, suggests that the adversary system is too expensive and the failure of the judiciary is one component that is ignored in the reform efforts. Among the article's proposals for reform, Pope advocates for the Defense Bar to support ADR programs that settle cases and eliminate cases from court dockets.

SUBJ MATTER: GENERAL/ COURT REFORM/ ECONOMIC
ADVANTAGES OF ADR.

Porter, Shelia D.; Ells, David B. "Mediation meets the criminal justice system". Colorado Lawyer; November, 1994; 23(11): pp. 2521-25.

Article discusses Colorado communities' experiences and plans for use of mediation in the criminal justice setting.

Encourages the organization and formal study of victim-offender mediation. Discusses the characteristics of several victim-offender model systems: church-based, community-based, and system-based. Outlines Colorado's mediator training and education opportunities.

MED: RELATED PROCESSES-GENERAL/ MED: RELATED
PURPOSES- THEORY AND STRATEGIES/ INST NATURE: JUSTICE
SYSTEM- CRIM COURTS/ SUBJ MATTER: CRIMINAL.

Poythress, Norman G. "Procedural preferences, perceptions of fairness, and compliance with outcomes: a study of alternatives to the standard adversary trial procedure". Law and Human Behavior; August, 1994;

18(4): pp. 361-76.

Recognizing that theorists have largely concluded that the Anglo-American adversarial model, in which parties have control of process and neutral third-party has control of outcome, is the best model, author suggests that variations of the model and hybrids between the adversarial model and inquisitional model, in which the third-party retains control of both process and outcome; may be advantageous in terms of fairness, accuracy, and compliance.

COMPLIANCE ISSUES/ FAIRNESS/ SUBJ MATTER: GENERAL.

"Proposed rule change to section 41 of the NASD Code of Arbitration Procedure". The Record of the Association of the Bar of the City of New York; April, 1994; 49(3): pp. 354-60.

Article criticizes the National Association of Securities Dealers, Inc.'s (NASD) proposed rule change to section 41 of the NASD Code of Arbitration Procedure with the Securities and Exchange Commission. Author suggest that the proposed rule change would give financially powerful institutions unwarranted advantages over less affluent customers, and would result in the acceptance of inadequate offers because the risk of bearing the adversaries legal fees would be too high.

ARB: FINANCIAL DISINCENTIVES.

"Protection of foreign direct investment in a new world order: Vietnam - a case study". Harvard Law Review; June, 1994; 107(8): pp. 1995-2012.

Article discusses foreign direct investments and the recent worldwide acceptance of international arbitration for resolving disputes between foreign investors and host countries. Author notes that Vietnam desires to promote foreign direct investments, but is not generally open to arbitration.

INST NATURE: PRIVATE, PROFIT-MAKING/ SUBJ MATTER: INT'L/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT.

Pryles, Michael. "Federal Arbitration Law", 5 vols.--(book reviews). Australian Dispute Resolution Journal; November, 1994; 5(4): pp.305-06.

Scope of treatise is limited to federal arbitration law in United States, primarily as dictated by the Federal Arbitration Act (FAA). Includes U.S. Supreme Court decisions on effect and scope of Act. Treatise provides

limited coverage of international arbitration.

TYPE OF SOURCE: BOOK REVIEW/ LEGISLATION.

Pyke, James. "Well done Philadelphia!". Solicitors Journal; September 23, 1994; 138(36): pp. 964-65.

Article discusses the circumstances and procedures of England's county court small claims arbitration scheme.

Author questions whether use of arbitration should be extended in this circumstance, given the already heavy workload of judges, who serve as arbitrators, and the absence of professional assistance for the disputants.

COMPARISONS: CROSS-CULTURAL.

Rau, Alan; Bonney, Karen R.. "Attorney-client fee disputes: survey results reported". Texas Bar Journal; September, 1994; 57(8): pp. 926-27.

Survey report of Texas law firms regarding their experiences with attorney-client fee disputes and their attitudes toward alternative methods of resolving such disputes. Survey discussed mandatory arbitration.

TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ ARB:
MANDATORY, COURT-ANNEXED- GENERAL/ ARB:
MANDATORY, COURT-ANNEXED- FEES & FUNDING.

Raudabaugh, John Neil. "Perspectives on labor law reform". Labor Law Journal; August, 1994; 45(8): pp. 470-75.

Author notes that workplace litigation is "out of control" and suggests traditional collective bargaining model is in need of reformation. One offered suggestion is merging NLRB and EEOC into an American Employee Relations Commission which would have broad jurisdiction in resolving workplace disputes. Author cautions against hasty reform or quick fixes, urging comprehensive examination of all workplace law and regulation.

SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-DISCRIMINATION/ INST NATURE: GOV'T ENTITIES.

Raven, Robert D.. "ADR in America" (book review). Dispute Resolution Journal; June, 1994; 49(2): pp. 82-83.

A review of ADR in America, which is a collection of 25 articles written by Robert Coulson on the topic of ADR. Article regards the book to be an excellent exhibition of Coulson's work and recommends it to all ADR enthusiasts.

TYPE OF SOURCE: BOOK REVIEW.

Ray, Douglas E. "Sexual harassment, labor arbitration and national labor policy". Nebraska Law Review; Fall, 1994; 73(4): pp. 812-42.

Article examines the "muddled" state of federal case law on the issue of judicial review of arbitrated sexual harassment labor disputes. From that analysis, author contends that reviewing courts should not vacate arbitrator awards on public policy grounds unless it is clear that the award compels a party to violate the law.

ARB: JUDICIAL REVIEW/ SUBJ MATTER:
LABOR-DISCRIMINATION.

Reeves, James W. "ADR relieves pain of health care disputes". Dispute Resolution Journal; September, 1994; 49(3): pp. 14-21.

Author examines St. Louis Health Care Claims Committee of the American Arbitration Association's analysis on alternatives to resolving disputes between physicians and patients. Cost of litigation is shown. Alternatives to litigation are proposed.

ECONOMIC ADVANTAGES OF ADR/ SUBJ MATTER: MEDICAL MALPRACTICE/ MED: PUBLIC POLICY DIALOGUE/ MED: PSYCH FACTORS.

Reish, C. Frederick; Ashton, Bruce L.; Levin, David R. "IRS settlement programs are helping qualified plans avoid disqualification". The Journal of Taxation; November, 1994; 81(5): pp. 276-82.

Discusses programs implemented by IRS Employee Plans and Exempt Organizations Division to achieve goals of avoiding disqualification of the plan and facilitating settlement of disputes. Plans discussed are Administrative Policy Regarding Sanctions(APRS), Voluntary Compliance Resolution(VCR), and two forms of Closing Agreement Programs(CAP). Article discusses what disputes are appropriate for these resolution programs, their benefits, and drawbacks.

INST NATURE: GOV'T ENTITIES/ SETTLEMENT: AUTHORITY/
LEGISLATION.

Reske, Henry J. "Bill to expand arbitration defeated; critics claim mandatory program in federal courts raises cost of justice". ABA Journal; February, 1994; 80: p22.

Article discusses the one year extension of a program presently in place in some federal courts which either

requires arbitration or promotes it voluntarily.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST
NATURE: JUSTICE SYSTEM-OTHER/ JUDICIAL PARTICIPATION/
SELECTION OF APPROPRIATE PROCESS.

Reuben, Richard C.. "The dark side of ADR". California Lawyer;
February, 1994; 14(2): pp. 53-59.

Article examines claims that private arbitration generates inherent conflicts of interest. Allegedly unfair elements of private arbitration include disclosure provisions, expense, and showings of favoritism to big business. Author cites the fact that these allegedly unfair elements have led to challenges of ADR techniques in the traditional court system.

INST NATURE: PRIVATE, PROFIT-MAKING.

Reuben, Richard C.. "Decision gives banking ADR a boost; State judge rules lender's switch to arbitration for customer claims not unfair". ABA Journal; December, 1994; 80: p. 32.

California state trial court upheld bank's arbitration clause for customers. Relying on state law, the court found that ADR clauses are not inherently unfair, nor are they unconscionable.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ
MATTER: COMMERCIAL/ SUBJ MATTER: CONSUMER.

Reuben, Richard C.. "King of the hill". (the alternative dispute resolution market). California Lawyer; February, 1994; 14(2): p. 55.

Article concerns the privately held Judicial Arbitration and Mediation Services (JAMS), California's largest ADR company. Article details the growth of JAMS and examines the ethical constraints on the company's judges. Author quotes the founder of JAMS as the founder defends challenges to the ethical validity of his company.

INST NATURE: PRIVATE, PROFIT-MAKING.

"Review of developments in state securities regulation". Business Lawyer;
November, 1994; 50(1): pp. 343-410.

Reviews the significant developments in judicial and administrative cases since the 1993 review was issued. Also reviews significant regulatory developments. Examines major cases on a state-by-state basis regarding arbitration in disputes between brokers and dealers. Outlines the use of the Federal Arbitration Act in most cases.

ARB: BINDING ARB- GENERAL/ INST NATURE: JUSTICE
SYSTEM GENERAL/ SUBJ MATTER: SECURITIES/ LEGISLATION.

Reymond, Claude. "Security for costs in international arbitration". Law Quarterly Review; October, 1994; 110: pp. 501-06.

Article examines a recent House of Lords decision, which held English courts could order security for costs for international arbitrations that occur in England, and compares it to what has become the common law of international arbitration. Author questions, in light of the decision, the degree of involvement of the courts in the course of arbitration.

SUBJ MATTER: INT'L/ JUDICIAL PARTICIPATION.

Riegert, R.W.; Lane, R.J.. "Canadian production in and to American markets: bilateral trading issues". Alberta Law Review; May 15, 1994; 32(2): pp. 284-309.

Article discusses dispute resolution in light of the bilateral trade relationship between the United States and Canada. Author recommends familiarization with the North American Free Trade Agreement, with the commercial law statutes of the United States, and with the tax liabilities of the United States in order to avoid litigation in American jurisdictions.

SUBJ MATTER: INT'L/ COMPLIANCE ISSUES/ ECONOMIC
ADVANTAGES OF ADR.

Robbins, Brent. "Rethinking financial information disclosure under the National Labor Relations Act". Vanderbilt Law Review; November, 1994; 47(6): pp. 1905-37.

Note discusses disclosure of financial information under National Labor Relations Act, the legislative history of the Act, and recent Supreme Court holdings. Note proposes that union should have access to financial information whenever relevant to fulfilling role as collective bargaining agent on basis of Act's good faith requirement. Management should deny disclosure only when control of business enterprise would be threatened by disclosure.

SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/
LEGISLATION/ REQUIREMENTS: STATUTORY OR RULES.

Roberts, Charley. "Taxation of settlements raises numerous difficult questions". Tax Notes; April 25, 1994; 63(4): pp. 484-85.

Examines the deductability of settlements from federal income tax. States that the language of the agreement is very important in determining whether a settlement will be deductible.

INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: TAX.

Roberts, Simon. "Divorce reform green paper: a coherent and radical vision". Family Law; April, 1994; 24: pp. 204-05.

Author describes how the Lord Chancellor's consultation paper on divorce emphasizes party negotiation and mediation in divorce disputes. Author claims the emphasis on negotiation is appropriate but that the proposed role for mediation may be problematic.

SUBJ MATTER: FAMILY (DOMESTIC REL)/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: RELATED PROCESSES- GENERAL.

Robinson, Edward. "International law gets new playing field; GATT clears the way". The Los Angeles Daily Journal; April 19, 1994; 107(74): p.1, col 1.

Article examines the provisions for dispute resolution in GATT. Suggests that dispute resolution provisions are important in the international law context. Under GATT, the strength of veto power has been weakened and an appellate system has been created.

ARB: PRIVATE JUDGING/ SUBJ MATTER: INT'L.

Robinson, Margaret. "Looking to the future". Family Law; February, 1994; 24: p. 106.

Article points out flaws with a British Lord Chancellor's Paper suggesting mediation as a means of settling marital disputes. Author's primary contention is with the suggestion that troubled couples attend an initial interview where the couple would receive advice and information about divorce proceedings. The information is intended to reduce the likelihood of a formal court proceeding. Author believes that husband and wife are unlikely to attend such an interview together and instead recommends showing the husband and wife a video containing the information, to be viewed separately at their convenience.

SUBJ MATTER: INT'L.

Robinson, Margaret. "Looking to the future- who should conduct the

information interview?" (United Kingdom). Family Law; March, 1994; 24: p. 152.

Article identifies potential conflicts of interest of certain parties, including lawyers, in conducting information interviews for divorce settlement. Author argues that the U.K. needs a "new national organization" that could offer information, mediation, and marital counselling.

NON-BINDING RECOMMENDATION PROC- GENERAL/ MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ ROLE OF LAWYERS.

Robinson, Margaret. "Looking to the future - headlines and soundbites". Family Law; April, 1994; 24: pp. 206-207.

Author describes Britain's divorce reform Green Paper.

Author examines the section on organizing and paying for mediation and legal services and the paper's proposal to make it a condition of receiving public assistance that those who receive it behave reasonably in all circumstances.

MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: FAMILY (DOMESTIC REL).

Robinson, Margaret. "The professional/client contract". Family Law; November, 1994; 24: p. 648.

Author outlines differing roles of client and lawyer in typical professional/client relationship, reflective contract, and reflective contract in mediation.

SUBJ MATTER: FAMILY (DOMESTIC REL)/ ROLE OF LAWYERS.

Robinson, Margaret. "Windsor consultation on divorce law reforms". (United Kingdom). Family Law; June, 1994; 24: pp. 341-42.

Article summarizes efforts of the Windsor Consultation on Divorce Law Reform. The consultation updated its definition of marriage and looked at proposals regarding marital education. The consultation clarified the role of mediation and counseling in divorce settlement.

MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: PUBLIC POLICY DIALOGUE/ MED: COUNSELING/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS/ SUBJ MATTER: PUBLIC POLICY/ SUBJ MATTER: FAMILY (DOMESTIC REL).

Rogoff, Martin A.. "The obligation to negotiate in international law:

rules and realities". Michigan Journal of International Law; Fall, 1994; 16(1): pp. 141-85.

Discusses role of requirement that nations enter international negotiations. Effectiveness of these requirements are examined in context of international law.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- / NEG: TACTICS, STRATEGIES AND TECHNIQUES- OTHER.

Rolling, E. Jane. "Around the world on eight dollars a day: the binding effect of maintenance rate provisions in collective bargaining agreements". Tulane Maritime Law Journal; Summer, 1994; 18(2): pp. 317-46.

For centuries sea codes have provided that the vessel owner was bound to provide for the needs of a sick or injured sailor. Eight dollars a day has become and has remained the maximum per diem allowance for these sailors, despite an ever-increasing cost of living. Author explores whether a collective bargaining agreement that provides an excess of eight dollars per day should be upheld in court for public policy reasons even though this well-settled amount to cure normally cannot be abrogated by contract.

SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: PUBLIC POLICY.

Rose, Joseph B.. "The complaining game: how effective is compulsory interest arbitration?". Journal of Collective Negotiations in the Public Sector; Summer, 1994; 23(3): pp. 187-202.

Author conducted a study of settlements in Ontario, Canada to examine the effectiveness of compulsory interest arbitration. Author compared the performance of arbitration with strike-based systems to arbitration with a system featuring a choice of procedures in the private and public sectors. Author suggests that arbitration protects the public interest by preventing strikes. However, author also suggests that arbitration inhibits genuine collective bargaining and protects delays in achieving settlements.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ SUBJ MATTER: PUBLIC POLICY/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT.

Rose-Ackerman, Susan. "Consensus versus incentives: a skeptical look at regulatory negotiation". Duke Law Journal; April, 1994; 43(6): pp.

1206-20.

Article examines the practice of regulatory negotiation under the Negotiation Rule Making Act of 1990 and the National Performance Review's endorsement of regulatory negotiation. Author contrasts the procedures and effectiveness of regulatory negotiation with that of incentive systems.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ SUBJ MATTER: REGULATORY.

Rosenberg, Joshua D.; Folberg, H. Jay. "Alternative dispute resolution: an empirical analysis". Stanford Law Review; July, 1994; 46(6): pp. 1487-1551.

Article examines the authors extensive findings and recommendations of a study of the ADR program focusing on civil justice reform. The Northern District of California used the ADR process called early neutral evaluation (ENE) to improve the court system. The study found the key predictors of a successful ENE outcome were the attitude and skills of the neutral evaluator. The articles recommendations focus on selecting and retaining effective neutrals.

TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COURT REFORM/ 3RD PARTY: TRAINING/ 3RD PARTY: SELECTION/ INST NATURE: GENERAL.

Rosenstock, Robert. "The forty-fifth session of the International Law Commission". American Journal of International Law; January, 1994; 88(1): pp. 134-40.

Author describes the forty-fifth session of the International Law Commission of the United Nations as being highly productive. Included among the topics of discussion was dispute settlement and how the plenary discussed dispute settlement provisions for the draft on state responsibility on the basis of the special rapporteur's fifth report. The special rapporteur proposes that whenever counter-measures are taken, there should be binding third-party dispute settlement, including negotiation, conciliation, or arbitration/judicial settlement.

SUBJ MATTER: INT'L/ NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ ARB: BINDING ARB- GENERAL/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD.

Rosenzweig, Loren Callen. "Careful planning may establish excludability of damages awarded for age discrimination". The Journal of

Taxation; October, 1994; 81(4): pp. 254-60.

Article details recent IRS efforts to litigate whether damages received by plaintiffs under ADEA are excludable from income under Internal Revenue Code Section 104(a)(2). Article tracks recent tax cases following Burke, 112 S.Ct. 1867 (1992) and finds that the majority of courts exclude damages received from ADEA from income. Courts have also respected settlement agreements from ADEA cases. Authors recommend plaintiffs base their tort claims on other torts to protect damages from being taxed.

SUBJ MATTER: TAX.

Roth, Marianne. "False testimony at international arbitration hearings conducted in England and Switzerland: a comparative view". Journal of International Arbitration; March, 1994; 11(1): pp. 5-45.

Article discusses ramifications of false testimony on arbitration award and various civil and criminal penalties for such false testimony. Article reports results from survey of hearings in both Geneva and London. Author concludes that despite need to encourage the judicial economy arbitration provides, there is also a need for built-in safeguards to prevent false testimony.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: BINDING ARB- GENERAL/ ARB: JUDICIAL REVIEW/ ETHICS: MISREPRESENTATION, FAILURE TO DISCLOSE.

Rothman, Philip. "Pssst, please keep it confidential; arbitration makes it possible". Dispute Resolution Journal; September, 1994; 49(3): pp. 69-73.

Article explores preserving confidentiality in arbitration through procedural measures and proactive steps taken by the parties involved. Article points out that parties have a great deal of control over the confidentiality of proceedings and suggests effective contract provisions. Administrative rules may also deal specifically with confidentiality issues.

ARB: DRAFTING ARB AGREEMENT/ CONFIDENTIALITY.

Rubin, Pamela G. "Immigrants as grievants: protecting the rights of non-English-speaking union members in labor arbitration". Georgetown Immigration Law Journal; Fall, 1994; 8(4): pp. 557-73.

Article examines the participation of non-English-speaking union members in labor arbitrations. Author begins with an exploration of current protections for immigrants in

arbitration and particular problems faced by immigrants in trying to arbitrate grievances. Then, author proposes means for increasing immigrant protections in arbitration.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER:
LABOR-MANAGEMENT (UNIONS)/ FAIRNESS.

Rubino-Sammartano, Mauro. "New international arbitration legislation in Italy". Journal of International Arbitration; September, 1994; 11(3): pp. 77-86.

Article explains that the 1994 Statute in Italy provides an important role for arbitration as an alternative to traditional court proceedings. Article reviews specific provisions of the 1994 statute and suggests that its lack of rigidity may prompt other countries to review their own arbitration laws and encourage businesspersons to consider Italy as a venue for international arbitration proceedings.

INST NATURE: GENERAL/ SUBJ MATTER: INT'L/
LEGISLATION.

Rudasill, Mary C.. "The Alternative Dispute Resolution Practice Guide". Illinois Bar Journal; March, 1994; 82(3): pp. 165-66.

Article reviews the 1993 book The Alternative Dispute Resolution Practice Guide, edited by Bette Roth, Randell W. Wulff, and Charles A. Cooper. Author credits book with giving a detailed description of the arbitration process and the decision of whether or not to use arbitration in a particular dispute. However, the author is critical of the book's mediation section and suggests much more information on the mediation process is available. The book also covers topics such as specific practice areas in arbitration, lesser known ADR methods, and the applicable law that pertains to the ADR processes.

TYPE OF SOURCE: BOOK REVIEW/ ARB: MANDATORY,
COURT-ANNEXED- GENERAL/ MED: RELATED
PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION
PROC- GENERAL.

Rutowski, Arthur D.. "Mandatory arbitration of job bias claims: an employer's panacea or simply two bites of the apple?". Labor Law Journal; October, 1994; 45(10): pp. 636-44.

Article examines cases involving non-union mandatory arbitration clauses in resolving job bias litigation, including the 1991 U.S. Supreme Court case, Gilmer. Author

lists what courts require from arbitration agreements in order for agreements to be upheld. Article also includes model for employers and details recent cases involving non-union mandatory arbitration claims.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: EMPLOYMENT (NON- UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT.

Rutter, Nancy. "Superstalled: toxics cleanup reform is alive - barely". California Lawyer; July, 1994; 14(7): pp. 28-29.

Author describes debate raised by inclusion of arbitration scheme into revision of Superfund bill (42 U.S.C 960). Article stresses that although Superfund reform is designed to cut legal costs by 50% using non-binding arbitration to determine liability, insurance defense bar is worried that gains made from reducing litigation costs will be lost in annual payments to the fund.

NON-BINDING RECOMMENDATION PROC- NON-BINDING ARB/ INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: TOXIC TORTS/ ECONOMIC ADVANTAGES OF ADR/ LEGISLATION.

Sachs, Elisabeth. "Dispute resolution in a statutory accident benefits compensation scheme: the Ontario model". Advocates' Quarterly; May, 1994; 16(2): pp. 218-39.

Article examines how the Insurance Act of 1990 has moved disputes and issues of compensation in personal injury automobile accident claims from a tort based system to a dispute resolution system. Author demonstrates the formalized alternate dispute resolution process used to accomodate statutory automobile accident benefits scheme. Author claims mandatory mediation, arbitration, and appeals process allows victims a quick, inexpensive, and impartial system to obtain compensation.

INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: INSURANCE/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT.

Sadowy, Donna M.. "Do you really want to arbitrate?". Santa Clara Computer and High-Technology Law Journal; June, 1994; 10(1): pp. 239-49.

Article details history of arbitration efforts concerning a 1992 technology exchange contract between Intel and Advanced Micro devices and the subsequent challenge to the

arbitrator's decision in a California state court. Article points out that case-law is widely divergent in California as to the powers of an arbitrator and suggests the need for clear contract provision defining the arbitrator's role and scope of authority.

ARB: BINDING ARB- GENERAL/ ARB: DRAFTING ARB AGREEMENT/ ARB: JUDICIAL REVIEW.

Samborn, Randall. "Report: changed work force leaves labor law a relic; government's massive role in the workplace is leading more disputes to the courts". The National Law Journal; June 13, 1994; 16(41): p. A16, col. 1.

Article discusses the burden placed on courts as a result of both the decline of collective bargaining and the enactment of federal and state workplace laws and regulations. Author notes that reformers have recommended ADR as a means of lessening the court's workload.

SUBJ MATTER: LABOR-GENERAL.

Sand, Robert H.. "Pragmatic suggestions for negotiating reductions in OSHA citations". Employee Relations Law Journal; Summer, 1994; 20(1): pp. 153-59.

Article suggests that employers can minimize expenses and risks of contesting OSHA citations by negotiating settlements with area directors. Author states the goal of these negotiations is to cut penalties by a third, while eliminating erroneous or questionable items or citations.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ SUBJ MATTER: ENVIRONMENT/ ECONOMIC ADVANTAGES OF ADR.

Sandbridge, Hala A.. "Recovering attorney fees incurred in arbitration: the unworkable two-tiered system". Florida Bar Journal; November, 1994; 68(10): pp. 80-82.

Article discusses and provides support for the recent Florida Supreme Court ruling allowing for recovery of attorney fees incurred in arbitration. Suggests that the practical benefits of this rule have been undermined by the unworkable "two-tiered" system imposed by lower courts, wherein the winning party gets the right to sue for fees, but the award can only be determined and enforced by a trial court. Argues that the arbitrator is in the best position to determine the award of attorney's fees.

ARB: BINDING ARB- GENERAL/ ARB: MANDATORY,
COURT-ANNEXED- FEES & FUNDING/ ARB: JUDICIAL REVIEW/
SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/
ECONOMIC ADVANTAGES OF ADR.

Sandrock, Otto. "Is international arbitration inept to solve disputes arising out of international loan agreements?". Journal of International Arbitration; September, 1994; 1(3): pp. 33-60.

Article describes how contracts involving international loan agreements traditionally favored forum selection clauses instead of arbitration clauses to provide for the settlement of disputes. Objections to arbitration clauses are unfounded, however, and should be considered by decision makers. Arbitration clauses should state a recognized arbitration body, authorize the arbitrator to fashion an appropriate remedy, and include procedural measures such as those providing for service of process.

ARB: BINDING ARB-GENERAL/ SUBJ MATTER: INT'L.

Sarles, Jeffrey. "The case of the missing woman: sexual harassment and judicial review of arbitration awards". Harvard Woman's Law Journal; Spring, 1994; 17: pp. 17-56.

Author proposes that in reviewing arbitration of sexual harassment suits courts should use heightened scrutiny when evidence shows that the arbitrators failed to "incorporate or take seriously the public policy against workplace sexual harassment". Author proffers protection of harassed workers over national labor policy favoring sustaining arbitrators' decisions. Article surveys recent cases illustrating need for less deference to arbitrators' decisions in such situations.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ
MATTER: LABOR-DISCRIMINATION/ ARB: JUDICIAL REVIEW.

Schacter, Oscar. "Dispute settlement and countermeasures in the International Law Commission". American Journal of International Law; July, 1994; 88(3): pp. 471-77.

Article examines the International Law Commission's proposal that would condition the lawfulness of countermeasures on dispute settlement measures. The issues involved include some of the most troubling aspects of international law: unilateral coercive sanctioning, disparities in power, and resistance to compulsory third-party dispute settlement.

Commission's proposal would allow a country to take countermeasures (retaliatory actions) only after seeking dispute settlement by an established set of procedures.

INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T/
SUBJ MATTER: INT'L/ ORGANIZATION POLICIES AND RULES.

Scheff, S. Leonard. "Cave arbitration (cave canem - beware of the dog)". Arizona Attorney; June, 1994; 30(10): pp. 11-12.

Article is a critique of arbitration as an "all-purpose nostrum." Author sets forth examples in which arbitration may be more expensive, may take longer, and may be less fair than traditional litigation. Author recommends consideration of the drawbacks, rather than a routine insertion of an arbitration clause in contracts.

ARB: BINDING ARB- GENERAL/ ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/ ARB: DRAFTING ARB AGREEMENT/ ECONOMIC ADVANTAGES OF ADR/ FAIRNESS.

Schlumberger, Charles L. "Alternative dispute resolution and Acts 287 & 641 of 1993: a small step or a giant leap?". Arkansas Lawyer; Winter, 1994; 28(1): pp. 8-12.

Discusses two new Arkansas statutes. Act 287 makes arbitration clauses non-binding. Act 641 requires state and local governments to use arbitration under certain circumstances and allows state courts to "prod" litigants toward arbitration or settlements.

ARB: OBTAINING AND ENFORCING AGREEMENT TO ARB/
ARB: JUDICIAL REVIEW.

Schmitz, Suzanne J.; Lapinski, John J.. "What's new at the courthouse: a survey of ADR programs in Illinois". Illinois Bar Journal; March, 1994; 82(3): pp. 134-38.

Article summarizes advantages of and differences between ADR methods used in Illinois courts and agencies, especially in the context of civil damage and family cases. Author discusses arbitration, mediation, conciliation, expedited child support collection, and Civil Justice Delay and Expense Reduction Plan of Southern District Court of Illinois.

MED: OTHER JUDICIAL SETTLEMENT DEVICES/ ARB:
MANDATORY, COURT-ANNEXED- GENERAL/ INST NATURE:
GOV'T ENTITIES/ SUBJ MATTER: FAMILY (DOMESTIC REL)/
ROLE OF LAWYERS.

Schumacher, Jon R.. "The reach of the Federal Arbitration Act: implications on state procedural law". North Dakota Law Review; Spring, 1994; 70(2): pp. 459-84.

Article examines the severability of the Federal Arbitration Act's substantive and procedural commands, and the impact this has on the application of state procedural law. Author advocates that states focus on the purpose of the Act, to ensure the enforceability of arbitration agreements, and avoid enacting state procedural rules which will frustrate this purpose.

ARB: JUDICIAL REVIEW/ SELECTION OF APPROPRIATE PROCESS.

Schuster, Gunnar. "Extraterritoriality of securities laws: an economic analysis of jurisdictional conflicts". Law and Policy in International Business; Fall, 1994; 26(1): pp. 165-202.

Article examines the economic impact of international jurisdictional conflicts. Author evaluates jurisdictional doctrines in relation to their efficiency and applies game theory to jurisdictional conflict.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/
NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- GAME
THEORY/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-
ECONOMIC/ SUBJ MATTER: INT'L.

Schutze, Rolf A.. "The precedential effect of arbitration decisions". Journal of International Arbitration; September, 1994; 11(3): pp. 69-75.

Article concludes that the precedential effect of arbitration decisions in Germany is foreign to German courts. Although arbitration decision may have some impact on the resolution of subsequent disputes, traditional German courts are favored because of their stability. The impact of arbitration decisions is also limited because of a failure to publish decisions and a desire for confidentiality on the part of parties involved.

INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER:
INT'L.

Schuyler, Nina. "Vietnam calls on arbitrators for business". The Los Angeles Daily Journal; May 25, 1994; 107(100): p. 1, col. 4.

Article discusses the recent infusion of American companies into Vietnam since the end of the trade embargo, and the problems arising from that infusion. Article notes that the

American Arbitration Association has been called by Vietnam to handle those problems. Author mentions Vietnam's joining of the Asia/Pacific Center, an international arbitration group.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ SUBJ
MATTER: INT'L/ COMPARISONS: HISTORICAL.

Schwartz, Michael N.; Olson, Lawrence S.; Boykin, Richard A..
"Working with the APA process". Tax Notes; June 6, 1994; 63(10): pp.
1359-64.

Author explains all aspects of the APA process in transfer pricing disputes with the IRS. Addresses the questions of who should and who should not apply for an APA.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/
NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ SUBJ
MATTER: TAX.

Schwartz, Steven L.; McAlpine, Mark L.. "Advantages of ADR in Computer disputes". Michigan Bar Journal; June, 1994; 73(6): pp. 532-39.

Author discusses that computer disputes are well suited to ADR due to the fact that they are usually highly technical and often involve a number of parties. ADR can ease the frustrations that often force parties to abandon their relationships and litigate.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/
MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER: SCIENCE
& TECHNOLOGY.

Sciaroni, Bretton G.. "New investment law creates favorable framework". East Asian Executive Reports; July 15, 1994; 16(7): pp.
7-8.

Cambodia's National Assembly passed a new investment law for the country by a unanimous vote. The law provides for international standards of arbitration for the settlement of disputes. Thus, arbitration using international rules is now as much an option as local arbitration. The changes adopted should prove favorable to foreign investment.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ INST
NATURE: GOV'T ENTITIES/ SUBJ MATTER: INT'L/ ECONOMIC
ADVANTAGES OF ADR.

Seiberg, Jaret. "Supreme Court to hear challenge to mandatory arbitration clauses". American Banker; October 4, 1994; 159(191): pp.

1-2.

Article announces that Supreme Court is to determine whether banks may impose mandatory arbitration clauses in contracts with bank customers in case of Allied-Bruce Terminex v.

Dobson.

SUBJ MATTER: GENERAL.

Selick, Karen. "Rent-a-judge: maybe they'd try harder". Canadian Lawyer; March, 1994; 18(2): p. 46.

Author advocates opening judicial training to all lawyers, who would make themselves available for hire. Rent-a-judge would not necessarily involve privatization of courts because government could still pay for judge's services, although on piece-work versus salary basis. Author believes system might improve overall quality of judges.

3RD PARTY: SELECTION/ 3RD PARTY: TRAINING/ ROLE OF LAWYERS.

Semple, Walter G.. "Mediation as a form of alternative dispute resolution". Journal of the Law Society of Scotland; November, 1994; 39(11): pp. 406-09.

Article contrasts mediation with litigation and arbitration. Sets forth techniques of negotiation and mediation, as well as role of mediator in the process. Mediator restricted to facilitating negotiation and settlement, lacking power to decide dispute. Author notes results of mediation may be superior to other methods of dispute resolution since parties themselves agree.

MED: RELATED PROCESSES-GENERAL/ MED: RELATED PURPOSES- THEORY AND STRATEGIES/ MED: OBTAINING AGREEMENT TO USE.

Seneviratne, Mary. "Ombudsmen in the Public Sector". Philadelphia: Open University Press; 1994.

Book describes and evaluates the work of ombudsmen in Britain's public sector. Book explores the historical development of the ombudsman as an alternative method of dispute resolution in order to clarify the role of the ombudsman in Britain. Author examines the advantages and disadvantages of the ombudsman as a unique method of dispute resolution. Author argues that the presence of the ombudsman has positively influenced public administration by alleviating bureaucratic tensions.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/
INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: GOV'T/
OMBUDSPERSON.

Shailor, Jonathan G.. "Empowerment in dispute mediation: a critical analysis of communication". Westport, Conn.: Praeger; 1994.

"Mediation" and "communication" are defined in terms of parties' identities, relationships and cultural patterns. Author then applies definition of "empowerment" to three case studies to determine if parties were indeed empowered. When mediators allow parties to elaborate on their narratives, parties are not necessarily empowered: ideal model of mediation where parties separate their dysfunctional narratives from negotiation is never successfully achieved.

MED: ENCOURAGING COMM AND NEG/ MED: RELATED PROCESSES- GENERAL/ MED: PSYCH FACTORS.

Shepherd, Nigel. "Green paper - red alert?". ('Looking to the Future: Mediation and the Ground for Divorce'). Family Law; February, 1994; 24: p. 65.

Article defends the role of British solicitors in the divorce process. Author is responding to a British government paper that proposed an increased emphasis on the use of mediation over use of solicitors as a means of resolving marital disputes. Author recognizes that mediation is suitable in many cases, but suggests that a partnership between mediation and legal advice from solicitors would best serve the public interest.

SUBJ MATTER: INT'L.

Sherman, Spencer A.. "Yankee go home: sold out by GATT negotiators, American lawyers face a tough overseas market". California Lawyer; August, 1994; 14(8): pp. 64-68.

Article examines the repercussions of including legal services in GATT. Author summarily notes positive effects, and emphasizes negative consequences for American lawyers.

SUBJ MATTER: INT'L/ COMPARISONS: CROSS-CULTURAL/ ROLE OF LAWYERS.

Sherr, Mitchell A.. "Legal representation of public sector employers and unions in grievance arbitration". Journal of Collective Negotiations in the Public Sector; Summer, 1994; 23(3): pp. 203-09.

Article describes a random study of 351 public sector

arbitration awards reported to the American Arbitration Association. Article examines the use of attorneys as advocates during arbitration proceedings in the public sector.

ARB: BINDING ARB- GENERAL/ ARB: SELECTION OF ARBITRATOR/ SUBJ MATTER: GOV'T/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT.

Shihata, Ibrahim F.I.; Parra, Antonio R.. "Applicable substantive law in disputes between states and foreign parties: the case of arbitration under the ICSID Convention". ICSID Review - Foreign Investment Law Journal; Fall, 1994; 9(2): pp. 183- 213.

Article discusses the law applicable to the substance of disputes between States and private foreign investors and the experience of the International Centre for Settlement of Investment Disputes in this respect. Author focuses on the provisions of Article 42 of the ICSID Convention, which sets forth the provisions on the law applicable to the substance of disputes submitted to arbitration, and their application in practice.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: INT'L/ SUBJ MATTER: COMMERCIAL.

Short, Skip. "No-fault recovery rights: subrogation, liens, and intercompany arbitration". New York State Bar Journal; January, 1994; 66(1): pp. 22-26.

Article details New York's Insurance law provision for mandatory no-fault coverage for persons injured in automobile accidents. Author offers practical pointers on how to handle claims under this personal injury protection (PIP) provision and offers insight on both subrogation and intercompany arbitration under this PIP provision.

SUBJ MATTER: INSURANCE/ SUBJ MATTER: OTHER TORTS/ LEGISLATION.

Silberman, R. Gaull; Murphy, Susan E.; Adams, Susan P.. "Alternative dispute resolution of employment discrimination claims". Louisiana Law Review; July, 1994; 54(6): pp. 1533-58.

Article reports that faced with the ever-mounting costs and delays of litigation and mindful of the development of better ADR methods, with improved procedural safeguards, both employees and employers are looking to the benefits of

speedier, less costly and less confrontational ADR methods.

The essay looks at the history of ADR in employment disputes, the legal developments relating to ADR, and the interplay between the private employers' system of ADR and the Equal Employment Opportunity Commissions' system.

INST NATURE: GOV'T ENTITIES/ INST NATURE: PRIVATE, PROFIT- MAKING/ SUBJ MATTER: CIVIL RIGHTS/ AGREEMENT ON PROCEDURE/ ECONOMIC ADVANTAGES OF ADR.

Silverstein, Cindy. "Was a violation of due process due?". Brooklyn Journal of International Law; March, 1994; 20(2): pp.443-79.

Article discusses an international commercial case in which enforcement of a foreign arbitration award rendered by the United States-Iran Claim Tribunal was denied enforcement in the United States. Author describes the enforcement of foreign arbitral awards via the New York Convention, and argues that the due process violation found by the Second Circuit is a result of unjustified heightened scrutiny.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/ ARB: JUDICIAL REVIEW/ INST NATURE: JUSTICE SYSTEM-OTHER/ SUBJ MATTER: INT'L/ SUBJ MATTER: COMMERCIAL.

Simborg, Madeleine B.; Kelly, Joan B.. "Beware of stereotypes in mediation". Family Advocate; Summer, 1994; 17(1): pp. 69-70.

Author's explore the gender bias in mediation and suggest methods of mitigating the possible power imbalance that can result. Article discusses the mediator's role in mitigating the power imbalance in mediation. Authors conclude that a well-trained pool of mediators is needed to help the increasing numbers of people wanting to avoid the adversarial process.

FAIRNESS/ MED: RELATED PROCESSES-GENERAL/ POWER IMBALANCE.

"Simple Quarrels: Negotiating Money and Property Disputes on Divorce". New Law Journal; July 29, 1994; 144(6658): pp. 1052-53.

Review of book by John Haynes, providing advice for lawyers mediating in area of family law.

SUBJ MATTER: FAMILY (DOMESTIC REL)/ TYPE OF SOURCE: BOOK REVIEW.

Singer, Linda R.. "Settling Disputes: Conflict Resolution in Business, Families, and the Legal System"; 1994.

Book examines the growth of settlement alternatives in families, businesses, neighborhoods, government, and the legal system. Discusses the advantages and disadvantages of various processes from the points of view of potential participants and others affected by either the outcome or the costs of achieving it. Book will help people involved in disputes to analyze their own personalities and situations to determine whether face-to-face dispute resolution makes sense for them. It will also serve as a guide for professionals who wish to become conflict resolvers.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/
MED: RELATED PROCESSES-GENERAL/ ARB: BINDING ARB-
GENERAL/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER:
FAMILY (DOMESTIC REL).

Singletary, Cary R.; Shearer, Robert A.. "Mediation of employment discrimination claims: the win-win ADA option". Labor Law Journal; June, 1994; 45: pp. 338-45.

Article analyzes the background of the trend in the use of mediation to resolve employment discrimination claims. Author also provides step-by-step guidance through the mediation process.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/
MED: PUBLIC POLICY DIALOGUE/ SUBJ MATTER:
LABOR-DISCRIMINATION.

Sirota, Michael D.; Volkov, Ilana. "ADR can help a Chapter 11 debtor". New Jersey Law Journal; January 17, 1994; 136(3): pp. S27-29.

Article examines the applicability and usefulness of ADR in the case of a Chapter 11 debtor. Suggests that ADR can help preserve the cash reserves of a Chapter 11 debtor.

MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER:
GENERAL.

Sloca, Steven L.. "ADR in landlord-tenant cases". The Practical Lawyer; January, 1994; 40(1): pp. 45-58.

Article examines ADR's usefulness as a remedy for landlord-tenant disputes. Author indicates that ADR is not a well-suited solution for most landlord-tenant cases, but indicates its beneficial role in those cases where a satisfactory civil remedy is lacking for the parties.

SELECTION OF APPROPRIATE PROCESS/ SUBJ MATTER:
RENTAL HOUSING.

Small, Marshall L.. "Negotiating Delaware merger transactions". Review of Securities & Commodities Regulation; February 23, 1994; 27(4): pp. 29-41.

Article examines decisions in three 1993 cases (Zirn, Cede, and Paramount) that expand corporate director's duty of care and loyalty in, for example, communicating with shareholders about negotiations of proposed merger. Article discusses how to avoid triggering sale of control doctrine, steps to avoid harsh results if sale of control is triggered, and explores alternatives to Delaware's current sale of control rule.

SUBJ MATTER: CORPORATE/ DISPUTE NEG. v. DEAL MAKING.

Sneed, Richard C.. "Developing a road map". Corporate Counsel's Quarterly; October, 1994; 10(4): pp. 24-36.

Article gives outline of negotiating a business acquisition. Author gives strategies and suggestions for a successful business negotiation.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- OTHER.

Soeka, Eva; Fullin, James. "Resolving conflicts outside Wisconsin courtrooms: the new ADR referral statute". The Wisconsin Lawyer; August, 1994; 67(8): pp. 12-15.

Article reviews Wisconsin's ADR referral statute by describing eight ADR techniques involved and explaining the circumstances in which they may be used. Author also discusses courts' limitations in utilizing the rule, and compares the statute to those in other jurisdictions.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- MINI-TRIAL/ ARB: BINDING ARB- GENERAL/ NON-BINDING RECOMMENDATION PROC- SUMMARY JURY TRIAL/ NON-BINDING RECOMMENDATION PROC- EARLY NEUTRAL EVAL/ INST NATURE: JUSTICE SYSTEM- GENERAL/ REQUIREMENTS: STATUTORY OR RULES.

Song, Sang-Hyun; Kim, Seong-Ki. "The impact of multilateral trade negotiations on intellectual property laws in Korea". UCLA Pacific Basin

Law Journal; Fall, 1994; 13(1): pp. 118-39.

Article examines trade negotiations between Korea and the United States. Article examines the Korean Copyright Act. Author speculates that future intellectual property laws will focus on the enforcement of intellectual property rights.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/
NEG: CULTURAL CONSIDERATIONS/ SUBJ MATTER: INT'L/ SUBJ
MATTER: SCIENCE & TECHNOLOGY/ COMPARISONS:
CROSS-CULTURAL.

Sowerby, Warren; Tomkins, Arthur. "Mediation in the context of the case management pilot in the High Court". New Zealand Law Journal; August, 1994: pp. 307-11.

Authors discuss proposed case management pilots established in the High Court of Auckland and Napier, the essential feature of which is to identify disputed issues early and encourage ADR negotiation. Authors caution that mediators must depart from their ordinary adversarial dominant roles to which they are accustomed and function in more facilitating role as mediator. Concludes lawyers must master ADR just as any other judicial process to best serve and advise clients.

MED: REP OF A CLIENT DURING PROCESS/ CONFERENCE
PROCEEDINGS/ JUDICIAL PARTICIPATION/ ROLE OF LAWYERS/
SUBJ MATTER: INT'L.

Spain, Larry R.. "Alternative dispute resolution for the poor: is it an alternative?". North Dakota Law Review; Spring, 1994; 70(2): pp. 269-80.

Article examines whether alternative dispute resolution techniques offer the poor better access to forums for resolving their disputes. Author states that more research needs to be done before we can determine the effectiveness of the ADR techniques that have been implemented.

SUBJ MATTER: COMMUNITY/ FAIRNESS/ SELECTION OF
APPROPRIATE PROCESS.

Spencer, Shaun B.. "Arbitration; Ninth Circuit vacates arbitrator's remedy for violation of essence of agreement and public policy". Boston College Law Review; March, 1994; 35(2): pp. 430-39.

Article discusses Phoenix Newspapers, Inc. v. Phoenix Mailers Union Local 752, 989 F.2d 1077, in which the Ninth Circuit overturned an arbitrator's decision holding that the decision did not "draw its essence" from the collective bargaining

agreement. Although the Ninth Circuit followed the established rule that deference should be given to an arbitrator's decision, the court held that the decision violated clearly expressed public policy.

ARB: JUDICIAL REVIEW/ SUBJ MATTER:
LABOR-MANAGEMENT (UNIONS)/ INST NATURE: JUSTICE
SYSTEM- APPELLATE COURTS.

Stallworth, Lamont E.; Malin, Martin H.. "Workforce diversity: a continuing challenge for ADR". Dispute Resolution Journal; June, 1994; 4: pp. 27-41.

Article addresses use of mediation and arbitration to fairly and economically address diversity-related workforce issues. Author touches upon issues of perception of fairness and unfairness, and third-party neutral bias in resolving such disputes. Article also discusses types of diversity-related issues best suited for alternative methods of dispute resolution.

3RD PARTY: NEUTRALITY/ SUBJ MATTER: CIVIL RIGHTS/
SUBJ MATTER: LABOR-DISCRIMINATION/ FAIRNESS.

Stanley, Thomas J.; Gifford, Arthur H., Jr.. "Ways to add value for clients". Journal of Accountancy; October, 1994; 178(4): pp. 115-17.

Article discusses several ways in which CPA's can enhance relationships with clients. Authors suggest CPA's negotiate for clients with automobile dealers, builders, bankers and politicians.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/
NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL- ECONOMIC/
NEG: USE OF AGENTS/ SUBJ MATTER: COMMERCIAL/ SUBJ
MATTER: CONSTRUCTION/ SUBJ MATTER: PUBLIC POLICY.

Stayn, Susan J.. "Securing access to care in health maintenance organizations: toward a uniform model of grievance and appeal procedures". Columbia Law Review; June, 1994; 94(5): pp. 1674-1720.

Note uses data from Medicare to examine whether patients have adequate access to care. Author concludes that there is no method of recourse for those who receive sub-standard medical attention and asserts that a dispute resolution mechanism would ensure the integrity of HMO decision making.

INST NATURE: GOV'T ENTITIES/ INST NATURE: PRIVATE,
PROFIT- MAKING/ SUBJ MATTER: HOSPITALS/ SUBJ MATTER:

CONSUMER/ ECONOMIC ADVANTAGES OF ADR/ MED: FEES, FUNDING, AND ADMIN OF MEDIATION CENTERS.

Stefano, Inama. "An overview of judicial remedies available to EC Importers: are they really effective and available?". Journal of World Trade; June, 1994; 28(3): pp. 67-94.

Article examines the judicial remedies available to EC importers of goods from third countries. Author discusses, through analysis of EC cases, the various options for court action available to private parties under the EC treaty; actions in defense of direct imports; and actions concerning goods imported from third countries and put into free circulation. Author states efforts should be made to ensure greater legal certainty in these areas.

COMPARISONS: CROSS-CULTURAL/ SUBJ MATTER: INT'L.

Stewart, C. Evan. "Punitive damages in arbitration. New York Law Journal; July 21, 1994; 212(14): p. 1, col. 1.

Discusses probable role of punitive damages in arbitration, especially with respect to securities cases.

SUBJ MATTER: SECURITIES/ ARB: BINDING ARB- GENERAL.

Stolberg, William H.; Pence, Kyle D.. "The mediation privilege - an impermeable wall". Florida Bar Journal; May, 1994; 68(5): pp. 66-68.

Article describes problems that have arisen because of mediation privilege. Author argues that while mediation helps to achieve settlements through free and open communication, the privilege can estop litigant from bringing evidence to enforce or interpret settlements achieved in mediation. Author argues for an exemption to privilege once signed settlement agreements are reached.

MED: DRAFTING SETTLEMENT AGREEMENTS/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD.

Stover, Alan B.. "Building a construction case: fundamentals of the field are full of hidden complexities". ABA Journal; May, 1994; 80: p. 92.

Article discusses issues that may arise in a seemingly simple construction case involving non-payment of subcontractor. Suggests basic rules that attorney must follow when dealing with these cases: know the business, recognize the scope of the field, and be familiar with the forms used by the AIA (American Institute of Architects).

ARB: PREPARATION/ SUBJ MATTER: COMMERCIAL/ SUBJ MATTER: CONSTRUCTION/ SUBJ MATTER: LABOR-GENERAL/ SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ ROLE OF LAWYERS.

"Strategies for avoiding fee disputes". The Wisconsin Lawyer; August, 1994; 67(8): p. 20.

Based on improved attorney/client communication, article provides five specific practices attorneys can employ to avoid fee disputes.

DISPUTE PREVENTION/ ETHICS: MISREPRESENTATION, FAILURE TO DISCLOSE/ ROLE OF LAWYERS.

Strier, Franklin. "Reconstructing Justice: An Agenda for Trial Reform". Westport, Conn.: Quorum Books; 1994.

Author analyzes benefits and problems of adversary system and trial, exploring problems in areas including: truth-finding, jury incompetence, remedies and procedures, incompatibility of attorney and client goals, judge's passive role, and excessive cost. Book compares adversary system to ADR systems found in United States and abroad, advocating that several kinds of disputes be transferred to ADR fora and that courts make use of types of foreign ADR systems. Reforms for adversarial system include reallocating procedural power, empowering jurors, expanding judge's role, decreasing attorneys' power, and complementing trial with ADR.

INST NATURE: JUSTICE SYSTEM- GENERAL/ COURT REFORM/ RELATION TO ONGOING LITIGATION.

Stuckenberg, Charlene. "The proper role of alternative dispute resolution (ADR) in environmental conflicts". University of Dayton Law Review; Spring, 1994; 19(3): pp. 1305-39.

Article discusses the use of ADR techniques in resolving environmental disputes. Author resolves that ADR is not established in the realm of environmental law and should currently continue to be used as a supplemental tool.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ MED: RELATED PROCESSES-GENERAL/ NON-BINDING RECOMMENDATION PROC- MINI-TRIAL/ SUBJ MATTER: ENVIRONMENT.

Sturm, Susan M.. "Sameness and subordination: the dangers of a universal solution". University of Pennsylvania Law Review; November, 1994;

143(1): pp. 201-19.

Article suggests that emphasis placed upon sameness rather than differences of people may not always be proper way to resolve conflicts. Author suggests such approach may backfire if used in improper circumstances.

ROLE OF LAWYERS.

Sucharitkul, Sompong. "The arbitration mechanism of the International centre for the settlement of investment disputes". American Journal of International Law; July, 1994; 88(3): pp. 572-74.

Article reviews the publication of study focusing on the International Centre for the Settlement of Investment Disputes (ICSID), an organization that has been established for nearly three decades. Originally submitted as a LL.M. thesis to Hebrew University in 1990, the publication focuses on the ICSID and its arbitration procedures. Book review notes the authors treatment of the subject is logical and well structured and considers the piece noteworthy and appropriate, even if at times complex and unclear.

TYPE OF SOURCE: BOOK REVIEW/ SUBJ MATTER: INT'L/
ORGANIZATION POLICIES AND RULES/ SUBJ MATTER:
SECURITIES.

Takahashi, Ken. "The release-dismissal agreement: an imperfect instrument of dispute resolution". Washington University Law Quarterly; Winter, 1994; 72(4): pp. 1769-99.

Author examines the use of release-dismissal agreements in the resolution of criminal cases by weighing the interests of criminal defendants, the state, and the public. Although the author finds that these agreements are meritorious, he suggests that they are widely abused. Finally, the author proposes that the use of civilian oversight committees can deter abuse in the use of these agreements.

NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-
COOPERATIVE/ SUBJ MATTER: CRIMINAL/ EFFECT OF PROCESS
ON NON-PARTICIPATORY PARTIES.

Talmage, Constance C.; McCullough, Nancy. "Compendium of Colorado ADR provisions". Colorado Lawyer; July, 1994; 23(7): pp. 1515-19.

Article examines the recommendation made in March 1992 by the Colorado Judicial Institute that a wide variety of alternative dispute resolution options should be available as

an integral part of the judicial system in the state of Colorado, including, where appropriate, "alternative" forms of dispute resolution as well as traditional forms of litigation.

INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER: PUBLIC POLICY/ COURT REFORM/ JUDICIAL PARTICIPATION.

Taylor, Gary. "Grievance program multiplies discipline". The National Law Journal; July 18, 1994; 16(46): p. A5.

State Bar of Texas new client-oriented grievance program, including a toll-free hotline. Amount of grievance complaints nearly doubled with this program.

SUBJ MATTER: OTHER PROF MALPRACTICE/ 3RD PARTY: PRACTICE OF LAW/ SUBJ MATTER: PUBLIC POLICY.

Taylor, Gary. "Texas' public whistleblower statute hits sour note; whistleblowers are winning big judgments, but where is the money to pay them?". The National Law Journal; July 11, 1994; 212(4): p. 3, col. 1.

Plaintiff, who sought help from Texas Whistleblower statute, settled case for \$250,000 despite jury award of \$297,000 because legislative negotiators argued there was \$250,000 cap on judgments, placed by Texas Tort Claims Act.

SUBJ MATTER: GOV'T.

Taylor, Kim. "Patent harmonization treaty negotiations on hold: the 'first to file' debate continues". Journal of Contemporary Law; Fall, 1994; 20(2): pp. 521-45.

Article analyzes the prospects of a patent harmonization treaty under the World Intellectual Property Organization (WIPO). Article focuses on the advantages and disadvantages to the U.S. of the proposed "First-to-File" patent system.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ SUBJ MATTER: INT'L/ SUBJ MATTER: SCIENCE & TECHNOLOGY.

Taylor, Nicholas V.. "Powerful justice?". Journal of International Arbitration; December, 1994; 11(4): pp. 173-76.

Author addresses need for arbitration to ensure justice, fairness, and equality between parties. Article is written from the perspective of the English system. Author stresses that arbitrators must not under-use or abuse their powers, but use these powers with care.

ARB: SERVING AS ARBITRATOR/ COMPARISONS: CROSS-CULTURAL/ ARB: TRAINING AND QUALIFICATIONS OF

ARBITRATOR.

Teska, Kirk. "Federal court jurisdiction over settlement agreements". Trial; June, 1994; 30(6): pp. 44-47.

Article discusses procedural and jurisdictional problems related to the violation of settlement agreements reached in federal cases. Author analyzes F.R.C.P. 60(b) as a tool to regain federal jurisdiction through reopening the case, and outlines the conflicting approaches courts have taken to the question.

SETTLEMENT: AUTHORITY/ SETTLEMENT: ENFORCEMENT
OF SETTLEMENT OR AWARD.

Thomson, Dean B. "Arbitration theory and practice: a survey of AAA construction arbitrators". Hofstra Law Review; Fall, 1994; 23(1): pp. 137-72.

Article gives the results from a survey of 207 AAA construction arbitrators in the Minneapolis region. Survey's goals included: identifying the practices of arbitrators, seeing how the practice of arbitration compares with theory, eliciting from arbitrators suggestions for future AAA construction arbitration, and discovering arbitration techniques to aid those practicing in construction arbitration. The results of the survey are analyzed in light of the survey's goals.

SUBJ MATTER: CONSTRUCTION/ ARB: MANDATORY,
COURT-ANNEXED- GENERAL/ ARB: SERVING AS ARBITRATOR/
TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT.

Thrush, Arlin R. "Public health and safety versus confidentiality: expanding the mediation door of the multi-door courthouse". Journal of Dispute Resolution; Fall, 1994; 1994(2): pp. 259-72.

Article addresses the problems associated with mediating disputes within the Multi-Door Courthouse that involve public health or safety hazards. Article concludes with a proposed modification of the Multi-Door Courthouse in order to protect the public's interest in safety.

MED: RELATED PROCESSES-GENERAL/ MED: OPENING AND
SETTING GUIDELINES.

Tilton, Richard N.; Lewis, Kenneth M. "Alternative dispute resolution (in bankruptcy proceedings)". New York Law Journal; January 6, 1994; 211(4): p. 5, col. 1.

Article examines federal district court order creating a dispute mediation program in bankruptcy proceedings. Possibility of sanctions under this program. If mediation is unsuccessful, the matter proceeds to trial.

MED: RELATED PROCESSES-GENERAL/ COURT REFORM.

Trimble, Phillip R. "Arms Control by Committee: Managing Negotiations With the Russians". American Journal of International Law; April, 1994; 88(2): pp. 395-97.

Author reviews Arms Control by Committee, which presents a series of case histories of arms control negotiations. There are three objectives set forth in the book: (1) to add to the known history of the negotiations covered; (2) to provide material to teach students how the negotiation process works; and (3) to speculate about what works and what does not.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/
SUBJ MATTER: INT'L/ TYPE OF SOURCE: BOOK REVIEW.

Turian, Samantha R. "Drafting fee arbitration provisions". The Practical Lawyer; December, 1994; 40(8): pp. 23-34.

Article examines pros and cons for adopting fee arbitration provisions into attorney-client agreements. Author looks at various ethical considerations surrounding provisions of fee disputes, negligence and even malpractice provisions in agreements. Author notes that fee agreements may require client to consult outside attorneys to review agreement. Author lists contents of a model provision and concludes that agreements must follow state ethical rules.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/
NEG: TACTICS, STRATEGIES AND TECHNIQUES- OTHER/ SUBJ
MATTER: CONSUMER/ SUBJ MATTER: OTHER PROF
MALPRACTICE/ DISPUTE PREVENTION/ ETHICS: GENERAL.

Turley, Windle. "Creating the right settlement environment". Trial; June, 1994; 30(6): pp. 28-32.

Article discusses techniques for effective negotiation and settlement, emphasizing that preparation for settlement entails preparation and investigation for trial. Author's tips include such topics as dealing with the client, dealing with the defendant, and tactics to avoid.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/
NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/
NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG:

TACTICS, STRATEGIES AND TECHNIQUES- OTHER.

Turner, Lowell. "Labor Struggle in the Post Office: From Selective Lobbying to Collective Bargaining". Industrial and Labor Relations Review; January, 1994; 47(2): pp. 331-32.

Labor Struggle in the Post Office, according to the author of this review, provides a highly readable and entertaining presentation of the postal workers struggle to form union and deal effectively with the United States Government. This book also provides a good history of the postal workers experience, starting with an exciting account of the national wildcat strike of 1970.

SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: BOOK REVIEW.

Turner, William D.. "Restoring balance to collective bargaining: prohibiting discrimination against economic strikers". West Virginia Law Review; Spring, 1994; 96(3): pp. 685-715.

Article presents the union perspective on workplace fairness reform. It reviews the origins of the Mackay doctrine and the changes in legal, economic, and political labor climates since 1938. Article then surveys the main arguments in favor of banning discrimination against economic strikers and analyzes various legislative proposals for prohibiting such discrimination.

SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ FAIRNESS.

Turro, John. "Info exchange and bank secrecy remain keys to U.S.- Swiss treaty". Tax Notes; March 14, 1994; 62(11): pp. 1356-57.

Article examines the difficulties that have accompanied the renegotiation of U.S.- Switzerland income tax convention. The most important renegotiation issues for the United States are bank secrecy and information exchange. Article offers the 1993 U.S.- Czech Republic and the 1989 U.S.- Germany treaties for examples of U.S. Treasury's current thinking on issue of information exchange.

INST NATURE: GOV'T ENTITIES/ SUBJ MATTER: TAX.

Van Sickle, Bruce M.. "Open letter". North Dakota Law Review; Spring, 1994; 70(2): pp. 227-28.

Article criticizes current programs which make ADR a mandatory pretrial procedure. Author praises the unique value of the constitutionally protected right to trial by

jury and suggests that a jury is better suited for resolving the emotional factors inherent in trials between people.

REQUIREMENTS: MANDATE TO USE/ REQUIREMENTS: STATUTORY OR RULES/ SELECTION OF APPROPRIATE PROCESS.

Van Winkle, John R.. "An analysis of the arbitration rule of the Indiana Rules of Alternative Dispute Resolution". Indiana Law Review; Summer, 1994; 27(4): pp. 735-59.

Article discusses and analyzes Rule 3 of the Indiana Rules for Alternative Dispute Resolution approved and instituted by the Indiana Supreme Court in 1991. Rule 3 provides guidelines for arbitration. Author gives historical background of the arbitration rule and analyzes its mandates and the implication of Rule 3 in the 1991 version.

ARB: BINDING ARB- GENERAL/ REQUIREMENTS: STATUTORY OR RULES.

Varela, Marta B.. "Arbitration and the doctrine of manifest disregard". Dispute Resolution Journal; June, 1994; 49(2): pp. 64-76.

Article discusses how the vague doctrine of manifest disregard has been viewed as a ground for resisting enforcement of arbitral award claims. Author argues that the doctrine has never been sufficiently defined, that the search for a meaningful definition has unnecessarily burdened the courts, that judicial review of arbitration awards should be limited anyway, and that viable alternative mechanisms already exist to guard against outrageous arbitral misconduct.

SUBJ MATTER: PUBLIC POLICY.

von Benda-Beckmann, Franz; von Benda-Beckmann, Keebet. "Property, politics, and conflict: Ambon and Minangkabau compared". Law & Society Review; August, 1994; 28(3): pp. 589-607.

Article discusses differences and similarities in patterns of dispute management in the Ambon and Minangkabau regions of Indonesia. Author focuses on causes and significance of disputes in terms of politics and property rights, suggesting that both cultures are moving toward a notion of property rights similar to the Western concept of ownership.

SUBJ MATTER: FARM/ SUBJ MATTER: COMMUNITY/ TYPE OF SOURCE: CASE STUDY/RESEARCH REPORT/ COMPARISONS: CROSS-CULTURAL.

Voos, Paula B. "Negotiating the Future: A Labor Perspective on American Business". (book review). Industrial and Labor Relations Review; January, 1994; 47(2): pp. 332-34.

Article reviews Barry and Irving Bluestones' book which synthesizes recent research on labor involvement in corporate strategic decision-making. Author discusses the major issues of the book, which include a survey of the literature regarding traditional labor-management relation; the deteriorating performance of our economy in terms of productivity, quality, and innovation; and the promise of employee involvement programs. Author contends that there is nothing new in the book, but that it is a good summary of information.

SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ TYPE OF SOURCE: BOOK REVIEW.

Wade, John H.. "Mediation - the terminological debate". Australian Dispute Resolution Journal; August, 1994; 5(3): pp. 204-09.

Article addresses the various meanings of the concept of mediation. Outlines a visual structure to represent various aspects of mediation skills, processes, and protocols. Outlines seven factors that contribute to the on-going debate over what mediation really means.

TEACHING/ QUALITY CONTROL/ SELECTION OF APPROPRIATE PROCESS.

Wade, John H.. "Strategic interventions used by mediators, facilitators and conciliators". Australian Dispute Resolution Journal; November, 1994; 5(4): pp. 292-304.

Article deals with strategies for successful mediation, providing tips for self-evaluation and professional development. Author includes charts to assist with self-evaluation.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- COOP TECHNIQUES.

Walker, Janet. "Mediation and lawyers". Family Law; May, 1994; 24: p. 237.

Article is a comment on the proposed divorce reform law in the United Kingdom. Author attempts to dispel the misunderstandings of mediation. Mediation, author argues, will change the role of lawyers in the divorce process but will not make them disappear.

MED: PUBLIC POLICY DIALOGUE/ SUBJ MATTER: FAMILY (DOMESTIC REL)/ INST NATURE: JUSTICE SYSTEM- FAMILY COURTS/ ROLE OF LAWYERS.

Walton, Richard E.; Cutcher-Gershenfeld, Joel; McKersie, Robert B.. "Strategic Negotiations: Theory of Change in Labor- Management Relations. New York: Harvard Busn; 1994.

Book develops a modern theory of labor negotiations called "strategic negotiation." Strategic negotiation involves revisions in the social contract between management and labor in addition to the collective bargaining agreement. Authors expound upon their technique by analyzing thirteen case histories from contrasting business areas.

SUBJ MATTER: LABOR-GENERAL.

Wang, Gyo Ho; Kim, Jeong-Yoo; Yi, Jong-Goo. "Litigation and pretrial negotiation under incomplete information". Journal of Law, Economics, & Organization; April, 1994; 10(1): pp. 187- 200.

Article analyzes an infinite-horizon pretrial bargaining model under incomplete information with alternating offers. Authors characterize the unique sequential equilibrium involved in negotiation and claim that the equilibrium of the dynamic model is the same as that of the static model.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- THEORY: GENERAL/ NEG: W/ OR W/O ASSIST OF 3D PARTY NEUTRAL-GAME THEORY/ NEG: TACTICS, STRATEGIES AND TECHNIQUES-GENERAL.

Webb, Eileen. "The use of alternative dispute resolution in matters arising out of the Trade Practices Act of 1974". Australian Dispute Resolution Journal; May, 1994; 5(2): pp. 110-22.

Article argues in favor of using alternative dispute resolution in unfair trade practice matters because the government of Australia does not have the resources to prosecute all of the complaints filed under the Act and private actions are very expensive. Focuses on the use of mediation and arbitration.

MED: OBTAINING AGREEMENT TO USE/ SUBJ MATTER: CONSUMER/ SUBJ MATTER: INT'L.

Webb, Rodney S.. "Court-annexed 'ADR' - a dissent". North Dakota Law Review; Spring, 1994; 70(2): pp. 229-34.

Article states that ADR and civil jury trials serve two

distinct functions. Therefore, author suggests ADR programs should be supplied by the private sector and not the federal courts. Author views court-annexed ADR as a threat to the justice system and the constitutional right to trial by jury.

EFFECT OF PROCESS ON NON-PARTICIPATORY PARTIES/
JUDICIAL PARTICIPATION/ SELECTION OF APPROPRIATE
PROCESS.

Weber, T.V.. "A Guide to Divorce Mediation: How to Reach a Fair, Legal Settlement at a Fraction of the Cost". National Trial Lawyer; March, 1994; 6(2): pp. 59-60.

Part one of this book examines the issues of when divorce mediation is the right choice, what happens during the divorce mediation process, and how to choose a mediator.

Part two of the book looks at some typical divorce mediation cases to show the problems, solutions, and outcomes that can be expected from divorce mediation.

MED: RELATED PROCESSES-GENERAL/ SUBJ MATTER:
FAMILY (DOMESTIC REL)/ MED: RELATED PURPOSES- THEORY
AND STRATEGIES/ MED: ENCOURAGING COMM AND NEG.

Wehrle-Einhorn, Robert J; Wehrle-Einhorn, Jaunita L.. "Human resource enhancement through mediation training". Labor Law Journal; March, 1994; 45(3): pp. 157-66.

Authors argue that providing mediation training for employees will reduce workplace stress factors and prevent stress-related disciplinary problems that could become legal issues.

Article surveys and analyzes physical and socio-cultural workplace stress factors and provides practical outline for preventative mediation program.

MED: RELATED PURPOSES- THEORY AND STRATEGIES/
MED: ENCOURAGING COMM AND NEG/ MED: PSYCH FACTORS/
SUBJ MATTER: EMPLOYMENT (NON-UNIONS)/ DISPUTE
PREVENTION.

Weich, Cecile C.. "Love on the dotted line: craft a prenuptial agreement carefully to withstand any future challenges". ABA Journal; October, 1994; 80: p. 50.

Article lists steps parties should take to ensure prenuptial agreements withstand challenges. Suggested steps include that both sides be represented, that matters of "consciousness raising" be included, and that parties

videotape the signing of agreements.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/
NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ SUBJ
MATTER: FAMILY (DOMESTIC REL).

Weil, David. "Turning the Tide: Strategic Planning for Labor Unions".
New York, New York: Lexington Books; 1994.

Author examines strategic planning that labor unions must have to respond to external changes creatively. Author notes two major changes on the way goods and services are produced: leaner production methods in the private sector and new ways of delivering services in the public sector. Author concludes that labor union leaders must take responsibility for implementing changes to help solve labor's problems.

Weinzierl, Michael E.. "Wisconsin's court-ordered ADR law: potential for resolving libel disputes". Journal of Dispute Resolution; Fall, 1994; 1994(2): pp. 193-216.

Author argues that the Wisconsin Judicial Council's court-ordered ADR plan will benefit litigants by giving them an alternative to the courtroom battle. Article critiques the structure of current libel law and discusses how ADR will improve this structure. Article also examines the efficiency and effectiveness of Florida's dispute resolution program.

INST NATURE: JUSTICE SYSTEM- GENERAL/ SUBJ MATTER:
CIVIL RIGHTS/ ECONOMIC ADVANTAGES OF ADR.

Weller, Steven. "Answering client questions about alternatives to litigation". Nevada Lawyer; March, 1994; 2(3): pp. 19-23.

Article gives answers to possible client questions about arbitration, mediation, and other ADR options. Among the questions answered are: what are the major benefits of arbitration and mediation; how does arbitration and mediation work; when should arbitration be used; and what are the risks of mediation and arbitration. Article also briefly overviews ADR techniques of early neutral evaluation, the mini-trial, the summary jury trial, and mediation-arbitration.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/
ARB: MANDATORY, COURT-ANNEXED- GENERAL/ TEACHING/
SELECTION OF APPROPRIATE PROCESS.

Wheatley, Derek. "The disenchanted litigant". Solicitors Journal;
August 5, 1994; 138(30): p. 799.

Article discusses the need for increased ADR activities in England and points out the many advantages to be gained by mediation. Author praises a pilot ADR scheme to be instituted in Commercial Court.

ECONOMIC ADVANTAGES OF ADR/ COMPARISONS:
CROSS-CULTURAL/ MED: PSYCH FACTORS.

Wheeler, Michael. "Negotiating NIMBYs: learning from the failure of the Massachusetts siting law". Yale Journal on Regulation; Summer, 1994; 11(2): pp. 241-91.

Article first discusses the concept of NIMBYism (not in my back yard) and how this concept has developed into an economic and political movement. Author uses Massachusetts' efforts to institute a siting law and overcome NIMBYism as an example of a failure and as evidence for suggesting a better way to overcome this problem. Author suggests that reframing the negotiating process in regional siting to reconcile the local and regional needs is a step in the right direction for defeating the NIMBY syndrome.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/
SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: REGULATORY.

Widman, Stuart M.. "ADR and lawyer ethics". Illinois Bar Journal; March, 1994; 82(3): pp. 150-53.

Article discusses the consequences of an attorney failing to properly advise a client of a cost and time saving ADR process. Article reviews Illinois statutory and case law which impose on the attorney a duty to advise clients about ADR when appropriate. Article also gives proposed changes to Illinois statutes which will explicitly impose upon the attorney the duty to advise clients about ADR.

REQUIREMENTS: STATUTORY OR RULES/ SUBJ MATTER:
OTHER PROF MALPRACTICE/ LEGISLATION/ ROLE OF LAWYERS/
ETHICS: GENERAL.

Widoff, Mark P.. "The judiciary's role in compelling or staying public employment grievance arbitrations under Pennsylvania's enactment of the Uniform Arbitration Act: reconciling PERA and U.A.A.". Dickinson Law Review; Summer, 1994; 98(4): pp. 631-56.

Article examines the impact of the judiciary's role under Pennsylvania's adoption of the Uniform Arbitration Act. Article focuses on public employment contexts in which one of the parties to a collective bargaining agreement petitions

the court either to compel or to stay the arbitration.

Article also examines the way courts have attempted to reconcile the judicial authority to act on these petitions given the provisions of the Pennsylvania Public Employee Relations Act.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: GOV'T/ SUBJ MATTER: LABOR-GENERAL/ JUDICIAL PARTICIPATION.

Wilburn, Kay Owen; Broom, Lowell S. "Alternative strategies for litigation battles". Journal of Accountancy; March, 1994; 177(3): pp.77-81.

Article discusses ADR's application to accounting disputes, outlining benefits and issues relating to mediation, summary jury trial, and other techniques. Author notes creation of an Accounting Advisory Group within the AAA to focus on ADR issues.

MED: RELATED PURPOSES- THEORY AND STRATEGIES/ SUBJ MATTER: TAX/ ECONOMIC ADVANTAGES OF ADR.

Wilkinson, John H. "The American Arbitration Association Insurance ADR Manual". (book review). Dispute Resolution Journal; June, 1994; 49(2): p. 84.

A review of the American Arbitration Association's Insurance ADR Manual. Article notes that while the book is overtly focused upon insurance mediation, it contains valuable insights with respect to ADR generally.

SUBJ MATTER: INSURANCE / TYPE OF SOURCE: BOOK REVIEW.

Will, Daniel E. "Good faith bargaining and employers' obligation to substantiate collective bargaining claims (1992-93 Annual Survey of Labor and Employment Law)". Boston College Law Review; March, 1994; 35(2): pp. 391-401.

Article discusses holding of a recent decision of the D.C. Circuit and its impact on future labor negotiations. Court held that in negotiating contracts with labor unions, companies need not provide financial records to show competitive disadvantage or to satisfy "good faith" requirement.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ SUBJ MATTER: LABOR-MANAGEMENT (UNIONS).

Williams, Paul R.. "International environmental dispute resolution: the dispute between Slovakia and Hungary concerning construction of Gabčíkovo and Nagymaros Dams". Columbia Journal of Environmental Law; Winter, 1994; 19(1): pp. 1-57.

Objective analysis of Hungary's and Slovakia's legal positions regarding dams on the Danube. Examines international environmental law and the negotiations between the two countries.

SUBJ MATTER: ENVIRONMENT/ SUBJ MATTER: INT'L.

Winslow, William L.. "Resolving mass torts with designated settlement funds". Trial; October, 1994; 30(10): pp. 82-84.

Article discusses benefits of the designated settlement fund.

Author claims that the use of designated settlement fund simplifies negotiations in large cases and removes plaintiff's need to negotiate with the defense for a customized remedial arrangement.

NEG: EVAL OF OPTIONS AND OFFERS/ SETTLEMENT: PRESSURES TO SETTLE.

"Wisconsin's fee arbitration program". The Wisconsin Lawyer; August, 1994; 67(8): p. 19.

Article succinctly examines the basic elements of fee arbitration, including a summary of its benefits and outcomes. Author also explores client and attorney reluctance to use fee arbitration, and whether or not it should be mandatory.

ARB: BINDING ARB- GENERAL/ SUBJ MATTER: OTHER PROF MALPRACTICE/ ECONOMIC ADVANTAGES OF ADR/ ROLE OF LAWYERS.

Wood, Robert W.. "Taxation of settlements raises numerous difficult questions". Tax Notes; April 25, 1994; 63(4): pp. 484-85.

Letter to the editor examines the allocation difficulties incident to the taxation of tort settlements, and poses ethical solutions for lawyers.

SUBJ MATTER: TAX/ SETTLEMENT: ENFORCEMENT OF SETTLEMENT OR AWARD/ SETTLEMENT: PRESSURES TO SETTLE/ ETHICS: GENERAL.

Woodard, R. Bryan. "Defining the contours of mandatory collective bargaining under s. 158 of the National Labor Relations Act". Boston College Law Review; March, 1994; 35(2): pp. 378-91.

Article examines the D.C. circuit court's opinion in United Food and Commercial Workers International Union Local 150-A v. NLRB. Court approved a test created by the NLRB which determines whether a company's decision to relocate a business will be subject to mandatory collective bargaining.

SUBJ MATTER: LABOR-MANAGEMENT (UNIONS)/ INST NATURE: JUSTICE SYSTEM- APPELLATE COURTS.

Wrappe, Steven C.. "Advance pricing agreements: the IRS rediscovers alternative dispute resolution". Tax Notes; June 6, 1994; 63(10): pp. 1343-57.

Article examines the Internal Revenue Service's adoption of the Advance Pricing Agreement process, a form of ADR, to address transfer pricing disputes. Article emphasizes the benefits of the process, including certainty of tax treatment, preservation of ongoing relationships, efficiency, and confidentiality. Author suggests that ADR efforts should be expanded to address other complex factual disputes.

NEG: W/ OR W/O ASSIST OF 3D-PARTY NEUTRAL- GENERAL/ NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/ SUBJ MATTER: TAX.

Yamshon, Daniel. "ADR's dispute future; will increase in private judging lead to second-class courts?". The Los Angeles Daily Journal; October 31, 1994; 107(208): p. 6, col. 3.

Article examines possibility that ADR may lead to a two-tiered system of justice: private ADR for the wealthy and public courts for the poor. As private ADR grows, dollars for courts may be cut further.

INST NATURE: JUSTICE SYSTEM- GENERAL.

Zedalis, Rex J.. "A theory of the GATT 'like' product common language cases". Vanderbilt Journal of Transnational Law; March, 1994; 27(1): pp. 33-134.

Article suggests that the GATT "like" product provisions use the term "like" as understood from the theory of comparative economic language. Article looks at the relevant GATT provisions and evaluates the different possible meanings of "like." The author concludes, after looking at other GATT provisions and panel decisions not concerned with the term "like," that the theory of comparative economic advantage may be a unifying theme of GATT law.

INST NATURE: GOV'T ENTITIES/ SUBJ MATTER:

COMMERCIAL.

Ziegler, Dolores. "B of A's binding arbitration is upheld by judge in S.F.". The Los Angeles Daily Journal; August 19, 1994; 107(159): p. 1, col. 5.

Article discusses a San Francisco Superior Court's ruling that upheld a binding arbitration provision imposed on the customer of the Bank of America. Author notes that the court concluded it was the public policy of the law and the state to encourage alternative dispute resolution.

SUBJ MATTER: CORPORATE/ REQUIREMENTS:
CONTRACTUAL CLAUSES/ INST NATURE: PRIVATE,
PROFIT-MAKING.

Ziegler, Dolores. "Judge weighs bank's policy on use of binding arbitration". The Los Angeles Daily Journal; April 18, 1994; 107(73): p.3, col. 1.

Article on case addressing the issue of whether a bank's policy to use binding arbitration of disputes with its customers is protected by the doctrine of pre-emption. The case involves the Federal Arbitration Act and state laws concerning the validity of arbitration provisions.

ARB: MANDATORY, COURT-ANNEXED- GENERAL/
REQUIREMENTS: STATUTORY OR RULES/ LEGISLATION.

Ziegler, Dolores. "Ruling by S.F. judge strengthens arbitrator disclosure requirement". The Los Angeles Daily Journal; February 11, 1994; 107(28): p. 1, col. 2.

Article reports San Francisco Superior Court ruling that arbitrators must either check for conflicts of interest and reveal any to parties or must give reasons for not checking. In Betz v. Pankow, judge invalidated decision in \$10 million partnership dispute because one of three arbitrators failed to comply.

ARB: SELECTION OF ARBITRATOR/ ARB: CLIENT REP/ 3RD
PARTY: CONFLICT OF INTEREST/ 3RD PARTY: SELECTION.

Zimmer, Markus B.; Gray, Laura M.. "Alternative dispute resolution in the U.S. District Court". Utah Bar Journal; November, 1994; 7(9): pp. 12-15.

Article addresses fifteen of the most frequently asked questions by attorneys who practice in federal courts concerning ADR. Authors answer questions ranging from

"how are cases referred to the ADR program?" to "how much will it cost?" All of the questions are answered in easy to understand language.

COURT REFORM/ SELECTION OF APPROPRIATE PROCESS/
NON-BINDING RECOMMENDATION PROC- GENERAL.

Zinnecker, Timothy R. "Lawyers who draft and negotiate guarantees (and the clients who love them)". South Texas Law Review; July, 1994; 178(1): pp. 387-416.

Author examines how to draft and negotiate a guaranty for a client in a humorous, inventive way by "dropping in on a talk show" that offers "law-related entertainment." Article focuses on Texas law. Author goes through a sample guaranty and a sample agreement from both the borrower's and lender's perspective, going through the sample documents by examining every paragraph.

NEG: TACTICS, STRATEGIES AND TECHNIQUES- GENERAL/
NEG: TACTICS, STRATEGIES AND TECHNIQUES- PREP/ NEG:
EVAL OF OPTIONS AND OFFERS/ SUBJ MATTER: COMMERCIAL.

Zirkel, Perry A.; Winebrake, Peter D. "'Ain't misbehavin'?: the legal boundaries of bias and misconduct of labor arbitrators". Journal of Collective Negotiations in the Public Sector; Spring, 1994; 23(2): pp. 163-69.

Article gives brief overview of case law policing arbitrators' awards and behavior, as well as discussing standard for finding of arbitral bias and finding of arbitrator misconduct. Author advocates that parties, courts, arbitrators, and administrative agencies keep arbitrators' conduct in check by enforcing standards found in Code of Professional Responsibility of Arbitrators.

SUBJ MATTER: LABOR-GENERAL/ TYPE OF SOURCE: CASE
STUDY/ RESEARCH REPORT/ ARB: SERVING AS ARBITRATOR/
ARB: JUDICIAL REVIEW.

Zubrod, Donald E. "Evident partiality and misconduct of arbitrators". Journal of International Arbitration; June, 1994; 11(2): pp. 115-18.

Article discusses distinction between neutral and appointed arbitrators as decided by a case before the U.S. Court of Appeals, Eleventh Circuit: Sunkist Soft Drinks v. Sunkist Growers. Case was decided under AAA concepts rather than those of New York. Article briefly describes governing rules and concepts used in decision.

ARB: SELECTION OF ARBITRATOR/ ARB: TRAINING AND

**QUALIFICATIONS OF ARBITRATOR/ ARB: SERVING AS
ARBITRATOR/ ARB: JUDICIAL REVIEW.**